

A mere salve for the conscience

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From the beginning of this blog, I planned to feature contributions from colleagues to whom I owe much inspiration and motivation. Today's blog was written by Dr. Miriam Saage-Maaß. She is head of the Business and Human Rights program at the European Center for Constitutional and Human Rights (ECCHR). As part of her work she focuses on human rights violations in the supply chains of the global textile industry.

Everyone grows up with a number of certainties. One that I probably share with many people in Germany is this: if the certification group TÜV has inspected something – with German efficiency and thoroughness – then it must be safe.

TÜV and its associated companies like TÜV Rheinland have long gone beyond inspecting cars and playgrounds in Germany. Now they also carry out “social audits” of social and working conditions in factories all around the world.

But the TÜV inspections of clothing factories in Bangladesh and other south Asian countries are not as comprehensive as we might expect. This was made clear by the collapse of the Rana Plaza factory in Bangladesh in April 2013 in which more than 1,130 people died and 2,500 were injured. TÜV Rheinland had inspected the stitching facilities of manufacturer Phantom Apparel Ltd. in the Rana Plaza building just a few months before the disaster.

It was a similar story with the fire at the Ali Enterprises textile factory in Pakistan. The fire in September 2012 claimed the lives of 260 workers. The factory predominantly produced goods for German clothing store KiK. A few weeks before the fire, Italian company Rina issued the factory with a SA 8000 certificate, a marker of high fire safety standards.

The instinctive reaction of most consumers: incidents like these must have some legal consequences – including for TÜV and other certification firms. But the reality in Germany is that there are no consequences.

No responsibility for the content of reports

German courts are reluctant to impose liability for certification firms. The judiciary has held that none of the women who suffered harm from leaks in their TÜV-inspected breast implants are entitled to receive compensation from TÜV, arguing that TÜV was only obliged to inspect the manufacturer's system of quality control and not the quality or condition of the breast implants themselves. In the courts' view the contract to issue a certificate did not oblige the certifier to act in the interest of the women. The same problem occurs in the context of the social audits in south Asian textile factories; it is almost impossible for Rana Plaza workers to hold TÜV Rheinland liable for their report.

The current state of the law in Germany means that certification companies bear no responsibility for the content of their reports. For almost ten years empirical studies from various universities have shown that social audits and the accompanying “improvement programs” have almost no positive impact on working conditions in the global textile industry.

This means that while most corporations have their supplier companies vetted, this process has little effect. And if the inspection reports don't even reliably reflect the actual conditions in the factories then these reports aren't worth the paper they're written on.

System of “organized irresponsibility”

So why, then, do companies, consumers and politicians still rely on social audits? The Federal Ministry for Economic Cooperation and Development assumes that consumers are familiar with the various certificates and inspection mechanisms and can use these to make informed, socially responsible purchasing decisions. In this way consumers are supposed to use their market power to improve the working conditions at the suppliers of the companies where they shop. This concept alone is questionable enough. At a minimum, this would require that the inspection reports and details are made publicly available.

Above all the certificates must be reliable, must do what they promise and, crucially, must be legally actionable. As long as this is not the case, social audits serve only as a salve for management's corporate conscience.

Modern production and supply chains are so complex that transnational corporations often have only vague contractual relationships with manufacturing and supply firms. When catastrophes occur like those at Rana Plaza or Ali Enterprises, the corporations can claim that they had no influence on their many suppliers. Furthermore, they can also point to their social auditing reports. Social audits thus play a key role in the “organized irresponsibility” in global supply chains by facilitating corporate whitewashing.

Lawsuits currently pending

The pros and cons of certification are still being debated in Germany. Meanwhile, affected workers have already begun to seek justice before German and European courts. In the case of the factory fire in Pakistan, survivors and relatives have filed a compensation claim against KiK at the regional court in Dortmund, while the Italian certifier Rina is facing lawsuits on the certification of a passenger-ship at its headquarters in Genoa. ECCHR and its partner organizations have just filed a complaint with the corporate platform Business Social Compliance Initiative (BSCI) concerning the Rana Plaza/TÜV Rheinland case. BSCI claims to provide a comprehensive monitoring and qualification system aimed at improving the safety and working conditions in production companies, and TÜV Rheinland is one of 19 certification firms that carry out inspections at factories like Rana Plaza on behalf of BSCI members.