

O'Rourke, Dara

**Working Paper**

## Locally accountable good governance: Strengthening non-governmental systems of labor regulation

GEG Working Paper, No. 2005/16

**Provided in Cooperation with:**

University of Oxford, Global Economic Governance Programme (GEG)

*Suggested Citation:* O'Rourke, Dara (2005) : Locally accountable good governance: Strengthening non-governmental systems of labor regulation, GEG Working Paper, No. 2005/16, University of Oxford, Global Economic Governance Programme (GEG), Oxford

This Version is available at:

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LOCALLY ACCOUNTABLE GOOD GOVERNANCE:

STRENGTHENING NON-GOVERNMENTAL SYSTEMS OF LABOR REGULATION

Dara O'Rourke

Assistant Professor of Environmental and Labor Policy, UC - Berkeley

3 May 2005

GEG WORKING PAPER 2005/16



## **Dara O'Rourke**

Dara O'Rourke is currently an assistant professor in the Department of Environmental Science, Policy, and Management and an affiliate of the Center for Labor Research and Education at the University of California, Berkeley. Prior to returning to Berkeley, he was an assistant professor in the Department of Urban Studies and Planning at MIT. He completed his Ph.D. at the University of California at Berkeley in 1999, and completed his undergraduate studies in Mechanical Engineering and Political Science at MIT in 1989.

He has worked recently as a consultant to the United Nations Industrial Development Organization, the United Nations Development Programme, the World Bank, and the US Environmental Protection Agency on pollution prevention, cleaner production, industrial ecology, sustainable development, and corporate social responsibility issues. He is currently researching the environmental and social impacts of a number of global supply chains - including garments, shoes, paper, coffee, electronics, and petrochemicals - from resource extraction, to manufacturing, to use and disposal. He is interested in governmental and non-governmental strategies for monitoring and accountability over these production systems, and new models of public participation in environmental and labor policy regulation.

## **Summary**

This paper evaluates leading non-governmental labor regulation initiatives in the US and Europe. It comparatively assesses the codes of conduct and monitoring systems within these initiatives, discusses their different models of regulation and proposes criteria for evaluating their effectiveness. It identifies critical factors which appear to support more effective non-governmental regulation, such as: substantive participation of local stakeholders; public transparency of methods and findings; and mechanisms that bring market pressures to bear on multinational corporations, and simultaneously support processes of multi-stakeholder problem solving within factories and global supply chains.

## I. Introduction

The most dynamic experiments in global governance are not about national regulatory policies, international trade agreements, or even international agency initiatives. Rather, a new class of governance institutions has emerged that involve private and non-governmental stakeholders in negotiating labor, health and safety, and environmental standards, monitoring compliance with these standards, and establishing mechanisms of certification and labeling that provide incentives for firms to meet these standards. These non-governmental systems of regulation are expanding extremely rapidly across industries and regulatory arenas – from garments, to shoes, toys, forest products, oil and gas, diamonds, chemicals, coffee, electronics, and even tourism (Herrnstadt, 2001; Gereffi, Garcia-Johnson & Sasser, 2001; Wick, 2001; Cashore, 2002; Utting, 2002) – in response to recent trends in the weakening of national regulatory systems, the strengthening of multinational corporations, increasing importance of brands, and growing demands from civil society actors for new mechanisms of corporate accountability.

Proponents argue these initiatives as more flexible, efficient, democratic, and effective than traditional labor regulation (see Bernstein, 2001), while critics conversely assert that non-governmental regulation is a cynical attempt to free industry from the last vestiges of state regulation and union organizing (see Justice, 2001). Some fear non-governmental systems of regulation will preempt or “crowd-out” worker organizing efforts and the current role of unions, while others believe these systems can support worker empowerment and participation in shop-floor negotiations. Some believe monitoring and certification will provide consumers with a false sense that problems have been solved and will de-mobilize international labor and environmental campaigns, while others see the information generated by non-governmental regulation as key to transforming how we produce, consume, and regulate global products and processes.

Perhaps the most damning critique of non-governmental governance systems is that they represent a new form of privatized, elite regulation, and that these systems are mainly designed to protect multinational brands, rather than to actually solve labor or environmental problems. From this perspective, much that falls under the heading of global governance is suspect, unaccountable, and likely to benefit multinationals more than workers, communities, or the environment. Even labor governance regimes driven by NGOs from the north can be viewed as top-down, consumer-oriented, “elite” forms of regulation (Rodriguez-Garavito, forthcoming).

It is within this critical frame that new systems of non-governmental labor standards, monitoring, and regulation must be evaluated: first, for their general effectiveness, and second, for their accountability to local stakeholders. This paper seeks to critically and constructively engage this heated debate and assess emerging systems of non-governmental labor monitoring and regulation. Based on interviews with staff of the leading initiatives in the US and Europe, interviews with multinational managers and advocacy organizations, a review of the existing literature and program documents, and direct evaluation of monitoring of factories in China, Indonesia, and Mexico, this paper details efforts at non-governmental labor regulation, explains how these systems function, describes the challenges they face, and evaluates their effectiveness in improving labor practices. The concluding

concern of the paper is whether and through what institutional designs these systems could more effectively improve conditions in factories, and more broadly operate as effective, credible, and locally accountable systems of governance.

The paper begins by describing and evaluating the leading non-governmental labor regulatory programs in the US and Europe: the Worldwide Responsible Apparel Production certification program, Social Accountability International, the Fair Labor Association, the Ethical Trading Initiative, the Fair Wear Foundation, the Workers Rights Consortium, and a range of private internal monitoring initiatives. The paper comparatively assesses these systems, discusses their different models of regulation, and proposes a set of criteria for evaluating their effectiveness. The paper then discusses several cases that appear to be examples of successful non-governmental governance, interrogating their underlying dynamics, and drawing implications for broader efforts to make global governance more democratically accountable to those most directly impacted. The paper concludes by discussing factors which appear to support more effective non-governmental regulation, such as: substantive participation of local stakeholders; public transparency of methods and findings; and mechanisms that bring market pressures to bear on multinational corporations, and simultaneously support processes of multi-stakeholder problem solving within factories and global supply chains.

## **II. Non-Governmental Labor Governance**

Non-governmental systems of labor monitoring and regulation are both more diverse and messier than traditional government stipulated fixed rules and standards, monitoring and enforcement, and judicial review (Arthurs, 2001; Lipschutz, 2000; Reinicke, 1998). Non-governmental initiatives involve multiple actors in new roles and relationships, experimenting with new processes of standard setting, monitoring, benchmarking, and enforcement. They include chains of standard setters, layers of monitoring and enforcement, and competing systems of incentives and action.

To some degree this reflects the move from factory-centered, state regulation focusing on individual sites of production, to supply-chain and “brand” regulation, focusing on multiple actors in a production chain. The aim of the new non-governmental governance is to create a network of regulators, involving multiple stakeholders along global supply chains using NGOs, firms, and sometimes government agencies in setting standards and monitoring protocols. Enforcement relies largely on market sanctions – either through inter-firm purchasing decisions or NGO consumer campaigns that seek to influence consumer purchasing.

A diverse family of regulatory strategies are involved. In this paper, I use “internal monitoring” to refer to monitoring conducted by brands and retailers, “external monitoring” to refer to monitoring conducted by third-party organizations, and “verification” to refer to independent evaluations (not paid for by those being monitored) of the results of monitoring systems. Detailed descriptions of existing programs can help elucidate these different models. The codes themselves are diverse (Varley, 1998; Diller, 1999; Compa & Hinchliffe-Darricarrere, 1995). Some detail precise rules of action, while others present only general principles of good practice. Many appear to be converging now around the ILO core standards (MSN, 2004), and basic principles regarding the protection of health and safety, wages and hours, and

treatment of women<sup>1</sup>. While the general range of issues addressed in these systems is now fairly similar (van Tulder & Kolk, 2001), the details of codes can vary considerably. Appendix 1 presents a summary of the codes of conduct advanced by the four primary US monitoring systems. Key debates however, continue around issues such as freedom of association, wages (minimum vs. prevailing vs. “living”), and the scope of “non-discrimination” clauses. Systems for implementing and evaluating code compliance are obviously critical to the credibility of these codes. Increased pressure from labor and human rights groups has motivated a growing number of multinational corporations to adopt codes of conduct and to submit to some form of external monitoring<sup>11</sup>. To these ends a number of initiatives have emerged over the last several years to foster the implementation, monitoring, and verification of codes.

### **III. Firm Internal Compliance Monitoring**

Many large brands and retailers have developed procedures for monitoring supplier compliance with their newly created codes of conduct. The Gap, for instance, has a Vendor Compliance department with over 100 staff responsible for monitoring the implementation of the company’s code of conduct throughout its global supply chain. Levi’s, Disney, Walmart, H&M, and other companies have established similar programs. These corporations and others have spent literally millions of dollars on these internal monitoring systems. This has been motivated in part by perceived (and realized) costs of being accused of “sweatshop” practices by NGOs or the media. Although the evidence is still quite limited, recent research has shown statistically significant negative stock market responses to public disclosures of poor labor and environmental practices (Rock, 2001).

These systems can either be extensions of existing supply chain management programs – simply adding labor, human rights, and environmental concerns into current systems for evaluating quality, timeliness, price, etc. – or they can involve entirely new systems for internal monitoring and evaluation. Some companies are asking their quality control and purchasing staff to take on code compliance as an additional task, while others are hiring dedicated staff to conduct pre-certification audits of contractors and on-going assessments of code compliance.

Nike was one of the first companies in the apparel and footwear industries to develop an internal compliance division. In 1992, Nike established a code of conduct on labor and environmental practices for its network of suppliers (now over 950 factories around the world – none of which Nike owns – employing over 700,000 workers). Supplier compliance with the code is monitored through a program of internal evaluation conducted first by Nike staff, and then reviewed by external accounting, health and safety, and environmental consulting firms. Nike has developed internal monitoring tools such as its “SHAPE” audit (Safety, Health, Attitude of Management, People Investment, and Environment), “MESH” program (Management, Environment, Safety, and Health), and its latest “M-audit” that allow the company to integrate the evaluation of labor and environmental issues into broader management practices and training (see <http://www.nikebiz.com/labor/mesh.shtml>). MESH and the M-audit resemble the ISO 14000 management system, though it seeks to go further by evaluating actual factory performance. Nike now has approximately 80 staff who monitor labor and

environmental conditions in the company's contractor factories. Reebok and Adidas, Nike's main competitors, have established similar programs that combine in-house assessment with audits by consulting firms. Reebok for instance, has instituted a worldwide "Human Rights Production Standards Factory Performance Assessment" system, while adidas has created "Standards of Engagement" for labor practices, health, safety, and the environment for all its subcontractors (based on interviews with staff of Nike, Reebok, and adidas in 2000, 2001 and 2003).

Through these auditing tools, companies like Nike, Reebok, and Adidas now regularly rate their subcontractors for environmental and labor performance. In the case of Nike, points are assigned for performance in a wide range of categories, with additional weight given to labor and environmental performance rankings. Subcontractors are then told how they rate against other subcontractors in the same country. High scorers can garner more lucrative orders, while low scorers risk losing contracts. Nike bases these labor and environmental programs on quality control management systems for evaluating and ranking subcontractors. Requirements to improve labor conditions simply extend the scope of commitments agreed to in the code of conduct and subcontractor memorandum of understanding. Providing some evidence that this effort is earnest, Nike, Reebok, and Adidas have each cancelled a handful of contracts due to poor performance and an unwillingness of contractors to meet their code.

It is hard to determine how much improvement firm-led codes of conduct and monitoring programs have achieved. Little public research exists on the impacts of codes and self-monitoring on workplace conditions. Firms naturally assert that these systems respond effectively and sufficiently to labor concerns. Many companies continue to argue that they alone (perhaps with the assistance of a consulting firm) have the knowledge and ability to solve labor problems in their supply chains. However, judging by press reports, neither activists nor the general public appear to put much credence in corporate self-evaluation and monitoring (Connor, 2001a & 2001b). Based on recent cases in which codes and monitoring have been used for public relations rather than improving labor conditions, many stakeholders criticize voluntary codes and internal monitoring for their vulnerability to corporate manipulation (O'Rourke, 2002).

#### **IV. External Monitoring and Certification**

Growing public awareness and further activist pressure has led to a recent profusion of programs in the US and Europe to establish standardized codes of conduct and systems of monitoring that are conducted by accredited third-party auditors. Six major initiatives of this type have emerged: Worldwide Responsible Apparel Production (WRAP), Social Accountability International (SAI), the Fair Labor Association (FLA), the Ethical Trading Initiative (ETI), the Fair Wear Foundation (FWF), and the Worker Rights Consortium (WRC). Each of these programs has a code of conduct informed largely by ILO core standards, and five of the six have a system for accrediting external organizations to monitor compliance with their codes (the WRC does its own monitoring). A small army of monitors is emerging to provide these third party monitoring services including large accounting firms, professional service firms, quality testing firms, and small non-profit organizations (Bartley, 2001)<sup>iii</sup>. These monitoring systems differ in key procedures



for auditing (who conducts the monitoring and how), certification (whether a factory or a brand is certified), and reporting (what is publicly disclosed). Appendix 2 highlights some of the differences in these systems.

### **(a) Worldwide Responsible Apparel Production**

The Worldwide Responsible Apparel Production (WRAP) certification program is the most corporate-focused, and least publicly participatory, of the external monitoring and certification systems. WRAP was developed in 1998 by the American Apparel Manufacturers Association (now the American Apparel and Footwear Association (AAFA)), and began certifying factories in June 2000. WRAP's board members include major apparel brands such as Vanity Fair Corporation, Sara Lee, Kellwood, and Gerber Childrenwear. The WRAP Certification Board consists of individuals primarily from the private sector, although the majority of its board members are not directly affiliated with the apparel industry (MSN, 2001a).

WRAP began by creating its own code of conduct called the "WRAP Principles". The twelve WRAP Principles include standards for child and forced labor, and workplace and environmental protections. However, the WRAP Principles also contain unique requirements for customs compliance and drug interdiction, which support tight security controls over suppliers and shipments. The WRAP Principles are widely viewed as the weakest standards of any of these systems and the least transparent monitoring and certification program (MSN, 2001b).

WRAP's program certifies individual manufacturing facilities not brands. The WRAP Certification Board accredits firms to be external monitors of manufacturing facilities. WRAP has accredited twelve monitors to date, primarily professional service firms such as Intertek Testing Service (ITS), Global Social Compliance (formerly a division of PricewaterhouseCoopers), and Cal-Safety Compliance Corporation. These external monitors submit Facility Monitoring Reports to the WRAP Certification Board, which then reviews each report and makes the decision for or against certification. If a facility meets the WRAP standards, it is granted certification valid for one year, and may be required to undergo self-assessment and submit to external monitoring. Facilities may or may not be subject to unannounced inspections. As of April 2004, approximately 1200 factories had paid to go through the WRAP certification process; however, WRAP officials have not disclosed how many of those have been certified to meet its code (personal communication with K. Naah, WRAP. March 26, 2004). The countries in which WRAP has certified the most factories include China, Mexico, and the Dominican Republic.

WRAP has been criticized by a range of stakeholders for its perceived industry bias and low level of public transparency. WRAP does not disclose the names or locations of certified or audited factories and has not disclosed any audit findings (or even what an audit looks like). WRAP currently has no plans for providing information to consumers or other stakeholders. WRAP certification is designed to be used by factories as a selling point in their negotiations with retailers and brands. WRAP also currently lacks NGO and civil society participation in monitoring or verification. Audits are primarily pre-announced, and conducted by firms paid directly by the factories being audited.

## **(b) Social Accountability International (SA8000)**

Social Accountability 8000 (SA8000), a voluntary workplace standard patterned on the International Organization of Standards system (e.g., ISO 9000 and ISO 14000), was created in 1997 by the Council on Economic Priorities (a U.S. NGO), and now administered by an NGO called Social Accountability International (SAI), with an advisory board made up of representatives from multinational firms, international unions, and NGOs. SAI seeks to motivate factories as well as member brands to implement the SA8000 code of conduct and to be audited by accredited auditors. SAI is responsible for accrediting these auditing firms, conducting trainings for auditors, factory managers, and workers on the standards, and for publishing a list of factories meeting the SA8000 standard.

The SA8000 code, while based on the ILO core standards, has some unique components regarding the issues of wages, worker representation, and certification. SA8000 for instance, may be interpreted to include the requirement that factories pay workers a “living wage”, or what SAI refers to as a “basic needs” wage. SA8000 also requires firms to “facilitate parallel means of independent and free association and bargaining” in countries where it is not possible to form free trade unions. Both of these provisions remain highly controversial, as it is not clear, for instance, exactly what qualifies as effective parallel means of representation in countries such as China. SA8000 also includes a section on management systems that “requires policies and procedures and documentation systems that demonstrate ongoing compliance with the standard”.

SA8000, similar to WRAP, certifies manufacturing facilities, not brands or retailers. The idea behind this system is that brands and merchandisers will seek out factories that have received SA8000 certification, as they look to ISO 9000 certification to verify quality standards. SAI is also developing a Signatory Member program,<sup>iv</sup> which requires members to move their supplier factories toward SA8000 compliance, and to periodically report progress in meeting this goal.

SAI discloses lists of certified facilities and their locations but does not publicly disclose which facilities have lost their certification or which were rejected in their applications. 354 factories in 39 countries had been certified under SA8000 as of March 2004. The largest percentage of these facilities, 26 percent (ninety three factories), are apparel or textile firms. It is not clear whether or what percentage of Signatory Members' contract facilities have received SA8000 certification.

A number of concerns have been raised about the SAI strategy. Critics have argued that it is impossible to “certify” that any factory is in compliance with the SA8000 standard based on a one-day audit, once per year. Others point out the limitations of a voluntary, factory-centered initiative that has to date certified less than 100 apparel factories out of an estimated 100,000 factories producing for the US market (a critique which can be leveled at all of these systems). The SA8000 auditing procedures have also been criticized by NGOs for a perceived corporate bias and weak controls on the quality of monitors (LARIC, 1999). No NGOs have been accredited within the SAI system as auditors. As with WRAP, auditing is conducted by professional service firms and quality testing companies. Nine firms have been accredited by SAI to conduct audits under the SA8000 standard.

### **(c) Fair Labor Association (FLA)**

The Fair Labor Association (FLA), convened originally by the Clinton administration in 1996 as the Apparel Industry Partnership (AIP), is both the oldest and most controversial of current initiatives to establish monitoring and verification. The FLA originally focused only on the apparel and footwear industries, but has recently expanded to cover other industries producing university-logo goods. As of April 2004, the FLA consisted of twelve “participating companies”, primarily large brand apparel and footwear merchandisers, several non-governmental organizations, and about 175 university affiliates.<sup>v</sup> Through these universities, over 1100 collegiate licensees (companies producing goods that bear one of these universities’ logos) are participating in the FLA monitoring program.

The FLA has developed a “Workplace Code of Conduct and Principles for Monitoring”, accredits monitors, reviews audits, and reports on audit results. The FLA advances a monitoring system, which requires companies seeking certification to first inspect internally all of their contract factories by the end of their “implementation period”. Companies are also required to hire external monitors to evaluate at least 30 percent of their supplier factories during the first 2-3 years of the certification process<sup>vi</sup>. Over 2000 internal company audits have been conducted, and 292 external audits have been submitted to the FLA as of April 2004.

The FLA model has also come under fire from a number of unions, NGOs and student activists for being overly controlled by industry (Benjamin, 1998; MSN, 2001a). Critics pointed out that firms could select and directly pay their own monitors, had a say in which factories were audited, and only disclosed summaries of auditing results. Student activists have also criticized the FLA for failing to advance a living wage and for not sufficiently supporting union and women’s rights.

The board of the FLA responded to these criticisms in April 2002 by announcing major changes in the program’s external monitoring and disclosure procedures (FLA, 2002). The FLA is now taking much more control over external monitoring, with the FLA staff selecting factories for evaluation (from a sample of “high risk” contractors), choosing the monitoring organization, requiring that inspections be unannounced, and receiving all audit reports directly. The FLA then works with the brand and factory in a remediation process, and publicly discloses the results of the original audit and remediation efforts. FLA staff conduct their own follow-up inspections to verify remediation has occurred. The FLA is expanding its external complaint procedures and internal management systems reviews of brands. The FLA also recently unveiled a transparency initiative that provides “tracking charts” of individual factories (without names or locations), detailing noncompliance findings by FLA-accredited monitors and tracking progress of participating brands in remediating these problems. 84 tracking charts have been published to date on the FLA web site, with a goal of publishing all external audit reports by the end of 2004.

### **(d) Ethical Trading Initiative**

The Ethical Trading Initiative (ETI) was initiated in England in 1998. ETI is an alliance of companies, NGOs, trade unions, and the British Government, working to “identify and promote good practice in the implementation of codes of conduct of

labour practice, including the monitoring and independent verification of the observance of code provisions". ETI was established explicitly as an experimental "learning initiative", designed to help identify and disseminate information on how best to implement labor codes that benefit workers in global supply chains. ETI runs pilot projects and commissions research, in collaboration with partner firms and NGOs, which seek to examine specific challenges of code implementation, monitoring, and remediation of problems in supply chains.

ETI has conducted pilot projects in a number of countries, evaluating for instance, code implementation and monitoring in apparel production in Sri Lanka, India, and China, horticulture in Zimbabwe, bananas in Costa Rica, and wine in South Africa. These pilots are key to the ETI strategy as they generate information on issues such as how to monitor for child labor, how to evaluate the quality of one-day audits, how different actors can contribute to auditing, how best to establish worker complaint systems, etc. ETI reports the detailed findings of these pilot projects and internal auditing conducted by companies to member organizations (although this information is not made available to the public). ETI also holds public meetings and workshops where more general findings are reported.

The ETI recently began a two-year assessment process of its initiatives. The organization has hired outside researchers to evaluate whether, how, and under what conditions participation in ETI programs and implementation of the ETI base code improves working conditions, and what problems and challenges implementers face.

#### **(e) Fair Wear Foundation**

The Dutch Clean Clothes Campaign (2001), in collaboration with trade union representatives and Dutch retailers, established the Fair Wear Foundation (FWF) in 1999 (after five years of discussions and negotiations on code issues) to work with associations of small and medium sized enterprises in the Netherlands, and to oversee the implementation of a code of conduct through retail supply chains. The Fair Wear Foundation has developed a "code of labour practice", based closely on the ILO core standards, and requires companies to monitor their supply chains and to establish independent verification and worker complaint procedures. The FWF will certify companies that are implementing the code and have a system in place to gather evidence on factory conditions in their supply chains. FWF is responsible for verifying that the code is being implemented in a percentage of each firm's factories.

The FWF has conducted pilot studies in garment factories in India, Poland, Romania, and Indonesia to test its monitoring and verification procedures. Within the context of these pilot projects, participating companies have conducted internal inspections of their supply facilities and the FWF has performed external verifications to spot-check these findings. This process has led to FWF now requiring member companies to use a management system that stipulates the maintenance of a supplier registry, establishment of management and worker training programs, implementation of internal monitoring (in which the Dutch retailer monitors working conditions in its suppliers) and follow-up procedures for evaluating corrective action plans to address code violations.

Participating companies submit audit reports and corrective action plans to the FWF office. The FWF then makes public the names of brands participating in the FWF, their countries of operation, and the number of suppliers in each country. Specific information on business practices and worker interviews are kept confidential.

### **(g) Workers Rights Consortium (WRC)**

The Worker Rights Consortium (WRC) was developed by the United Students Against Sweatshops (USAS) in cooperation with the Union of Needletrades, Industrial and Textile Employees (UNITE), the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), and a number of human rights, labor, and religious NGOs in 1999. The WRC had 121 college and university members as of March 2004, and focuses primarily on factories producing apparel for the university market.

The WRC employs three broad strategies: (1) inspecting factories from which the WRC has received worker complaints; (2) pro-active inspections in countries with patterns of poor labor practices; and (3) information disclosure requirements. The WRC does not certify company compliance with a code of conduct, conduct systematic monitoring, or accredit monitors. Instead, the WRC encourages (but does not require) participating universities to adopt codes of conduct that closely resemble the WRC's "model code", which includes strong provisions for a living wage, women's rights, and recognition of worker's rights to freedom of association. The WRC requires member universities to commit to broad public disclosure and to develop mechanisms to verify information reported by companies and their suppliers.

The WRC's goal is to ensure that factories, which produce university branded apparel comply with the "model code of conduct", and in particular with rights to freedom of association and collective bargaining. The WRC also seeks to educate workers themselves about university codes, so that workers may report code violations to local NGOs or the WRC. The WRC's investigative efforts rely on collaboration with local NGOs and activists, personnel from either the WRC, its board, or affiliated university members, and labor and human rights experts.

To date, the WRC has conducted detailed investigations at about a dozen factories around the world<sup>vii</sup>. The WRC makes all of these factory investigation reports public. The WRC is also developing a database of manufacturing facilities, which allows the public to search by factory name, licensee name, location, or university affiliate (see <http://www.workersrights.org/fdd.asp>). The WRC is increasingly focusing on remediation processes, working with universities and buyers (usually the brands), and workers' organizations to negotiate solutions to problems raised by workers, with the hope that there will be some "ripple effect" to other factories in these regions.

The WRC is not without its critics. The WRC has been criticized (and publicly opposed) by a number of firms and university administrators<sup>viii</sup>. Opponents have accused the WRC of representing a "gotcha" model of monitoring, more focused on identifying problems and embarrassing firms, than on resolving problems (Brown

Daily Herald, 2000). And the WRC's in-depth inspection system has been criticized for having a limited scope and coverage.

Interestingly, the WRC, along with ETI, FLA, FWF, and SAI are now collaborating on a joint initiative in Turkey (see <http://www.jo-in.org>) that seeks to produce "guidance notes" on best practices in the monitoring and implementation of freedom of association, wages, and hours of work. The project is working to collaboratively assess the quality of audits; remediation and corrective action programs; and complaints mechanisms. The joint initiative also seeks to analyze ways in which leverage could be enhanced through cooperation across these multi-stakeholder initiatives.

Several other initiatives, while not explicitly focused on codes and monitoring, are also potentially supportive or complementary to non-governmental labor regulation. These include the Global Reporting Initiative (GRI) and the United Nations Global Compact initiative, created by the UN General Secretary in 2000 (see <http://www.unglobalcompact.org>). It should be noted, however, that neither of these initiative require external or independent monitoring or verification of any kind, but rather remain essentially self-reporting and disclosure systems.

## **V. Models of Non-Governmental Governance**

The diversity of current codes and monitoring systems has led to both confusion and debate about the benefits and costs of non-governmental regulatory strategies. Versions of non-governmental regulation range from individual factories paying to be certified, to multinational brands internally monitoring their contractor factories, to multi-stakeholder initiatives accrediting third party organizations to inspect factories, to independent NGOs inspecting factories individually or in coordination with worker campaigns. In these different forms of non-governmental governance, the substance, scope, implementation, participation, accountability, and transparency of inspection results can vary considerably. And more importantly, these systems also vary in their underlying models for improving labor practices in global supply chains.

Traditional labor regulation, now often disparaged as "command-and-control" policy, might be thought of as largely a state-centric, local "policing" model of governance. Clear, fixed rules are established, and government inspectors police compliance with these standards to advance a kind of "interventionist" regulation (Knill & Lehmkuhl, 2002). Non-governmental labor regulation represents a significantly different model of regulation, involving multiple stakeholders participating in standard setting, monitoring, and sanctions (or incentives). And as we have seen, these non-governmental regulatory initiatives often vary in their underlying regulatory models. The FLA, SAI, FWF, and WRAP are all firmly centered around enlisting market drivers for improved supplier performance. WRAP and SAI advance a system based largely on factory certification. These initiatives certify that management systems are in place to guarantee acceptable performance in individual factories. Certification provides a stamp of approval that is designed to attract customers to self-selecting factories. WRAP and SAI tap into the motivations of individual factories seeking to connect into socially concerned corporate buyers, as

factories are audited only if they ask (and pay) for the evaluation. These systems involve an advanced a form of “privatized regulation” (Knill & Lehmkuhl, 2002).

The FLA, FWF, and ETI deploy market pressures by creating supply chain policing systems involving multiple stakeholders. This advances a kind of “collaborative regulation” or “regulated self-regulation” (Ayres & Braithwaite, 1992; Teubner, 1983) that depends on top level commitment to the code from a brand or retailer, both internal and external monitoring of suppliers, and participation of NGOs in providing legitimacy to the system. The FLA, FWF, and ETI also provide information to buyers to use to influence supply chains.

The WRC advances essentially a “fire alarm” model of regulation (McCubbins & Schwartz, 1984) that focuses on creating new mechanisms of accountability for both firms and government agencies by gathering information from workers and local organizations and then helping them to organize to win demands. Alarms are triggered through complaints from workers and local NGOs, which motivate WRC inspections. Factories, and the brands purchasing from them, are targeted through this bottom-up process. The WRC then puts pressure on brands to improve conditions, and at the same time works to facilitate worker empowerment and organizing to negotiate improvements. Supporting freedom of association and collective bargaining are primary goals of the WRC.

These different systems create a spectrum of new regulatory processes: from “privatized” regulation, to more “collaborative” regulation, to more “socialized” governance of global production networks.

## **VI. Limits to Non-Governmental Regulation**

There are obviously a number of weaknesses and challenges to making these different regulatory systems effective. Non-governmental governance faces many of the same mundane challenges as traditional government monitoring and enforcement, including coverage, training and capacity of inspectors, incentives of monitors, corruption, and so forth.

The long and mobile nature of apparel supply chains, and the difficulty of sometimes even locating garment factories, is a critical challenge for non-governmental monitoring systems. Major apparel companies such as the Gap source their products from over 3300 factories in 70 countries. Disney is estimated to source from over 30,000 factories, Walmart from even more (Wach & Nadvi, 2000). The ability of firms to move production quickly between factories and to hide behind multiple layers of ownership makes systematic inspections extremely difficult<sup>ix</sup>. A number of critics have raised concerns that non-governmental monitoring involves visits to factories that are too infrequent to evaluate normal day-to-day operations. “Parachuting” monitors are able to identify the most obvious problems, but may miss many of the largest issues, and are not around long enough to actually solve problems (O'Rourke, 2002). Critics surmise quite reasonably, that NGOs will not be able to duplicate national labor inspectorates, as they cannot track the moving targets of factories that make up global supply chains (Justice, 2001), and they cannot access critical information on these factories without brands and retailers “voluntarily” providing this information. Thus the first challenge of non-governmental regulation is

simply accessing information on factory locations, workplace conditions, audit findings, remediation efforts, and worker concerns.

There are also clear power asymmetries between multinational corporations, non-governmental inspectors, advocacy groups, and workers (Rodriguez-Garavito, forthcoming). Some critics warn that companies are controlling these processes, co-opting NGOs by changing them from watchdogs to “partners”, and undermining strong local laws and unions (Justice, 2001). Having NGOs play the role of regulators may also ultimately undermine traditional regulatory processes (Nadvi & Wältring, 2001; ILO, 1998). Others fear that elected governments are actually ceding some of their sovereignty to consumers through these systems. Clearly the shift to non-governmental regulation focuses more attention on consumers (rather than the state or unions) as the key constituent of monitoring and enforcement.

A number of critics have also noted that codes and monitoring activities can actually hurt workers (Esbenshade, 2001; Liubicic, 1998). Monitoring reports can lead firms to cut contracts with poor performing factories, leading to job losses. Firms may reduce overtime at a factory working beyond a code of conduct's limit, despite workers needing these wages to survive. Workers may also be punished after complaining to auditors as these systems often have limited protections for workers who complain. Even when monitoring is effective, some of the most hazardous jobs may be shifted further down the supply chain or into the informal sector to avoid the selective gaze of non-governmental regulation.

Some critics also argue that monitoring, when it is conducted by local NGOs, can impede unionization or “crowd out” the efforts of local worker organizations. Compa (2001) discusses several cases in Central America where NGOs appear to be “supplanting the unions’ role as worker representatives by discussing wages and working conditions with factory managers”, a process which will actually help “powerful companies to avoid union organizing, enforceable collective agreements, and government regulation”. Others on the ground in Central America disagree with this assessment, arguing conversely that NGO monitoring has supported several union campaigns in El Salvador and Guatemala (Quinteros, 2001). This debate in Central America underscores the sense that NGOs and unions continue to be “wary allies” (Compa, 2001) and that many stakeholders in these processes do not feel that they control or are benefiting from northern-led non-governmental regulatory systems.

Finally, critics also point to a number of problematic versions of non-governmental regulation. For example, Global Social Compliance (formerly a division of PricewaterhouseCoopers), a monitor for many large multinationals, depends largely on data provided by management, conducts very cursory inspections of factories, and holds worker interviews inside the factories (O'Rourke, 2002). Factory managers often know who is being interviewed, for how long, and on what issues. This kind of monitoring can divert attention from the real issues in a factory, provide a false impression of performance, certify that a company is “sweat-free” based on very limited evidence, and actually dis-empower the workers it is meant to help. While there is no single perfect way to monitor a factory, there are clearly problematic monitoring practices that are not transparent, accountable, or beneficial to workers.

## **VII. Local Participation in Global Governance**



While there are clearly problematic versions of non-governmental regulation, and variations among even the most promising of these initiatives, there has been movement over the short history of these programs to address critical concerns about forms and levels of stakeholder participation, public disclosure of information, and mechanisms of accountability over firms and their monitors. In particular, there have been a number of efforts to increase the accountability of these systems to local stakeholders, consumers, and northern advocacy organizations.

Several of these initiatives have experimented recently with new forms of local participation and new processes of collaboration and cooperation between local actors and international organizations. The primary goal of these efforts is to both root non-governmental governance in local interests and concerns, and to connect these interests directly or indirectly to consumer concerns (and pressures) in the North. This involves developing new connections between US and European NGOs that work to mobilize consumers in advanced industrialized countries (or invoke their concerns in their corporate accountability campaigns), with unions, NGOs, workers, and communities in producer countries. This combines top-down pressure campaigns with bottom-up organizing, often justified or protected by formal codes and monitoring systems.

These dynamics can be viewed most clearly through specific cases, which might actually be considered failures of corporate internal monitoring. These cases involve garment factories that produced for MNC brands or retailers in which major problems were identified that had either not been found or not been remediated by these firms. Strategic alliances of NGOs and unions have used codes and monitoring systems as a framework within which to exert pressure and demand accountability over these factories, and to expand space for local worker organizing. Brands and retailers that are members of the FLA, and that have publicly committed themselves to codes of conduct and monitoring systems, have been targeted in this organizing. FLA membership, which was originally dismissed by many activists as largely PR (see Benjamin, 1998), appears to have created a window of accountability over multinational brands and retailers that NGOs have been able to work through. In fact, an interesting complementarity seems to be emerging between the FLA and WRC efforts – which only a few years ago were viewed as diametrically opposed.

In a series of cases involving both the FLA and the WRC, including factories in Mexico, Indonesia, the Dominican Republic, Guatemala, and the US, a pattern of internal and external, top-down and bottom-up, worker-to-consumer, strategies have been employed to resolve problems in specific factories and to build local worker organizing efforts. For example, in the now famous Kukdong case in Mexico (Barenberg, 2003), there was an important combination of formal procedures of inspection and remediation carried out through FLA and WRC investigations, and new forms of local participation and cooperation between workers, union representatives, NGOs, and student activists to support and protect the formation of an independent union. This combined strategy led to the signing of a new contract with factory management and important gains in pay and health and safety conditions (Brown, 2001). The international spotlight of formal codes and monitoring procedures, and external pressure brought to bear by NGOs and student activists was critical in the case in not only motivating resolution of specific grievances in the factory, but also in protecting the fledgling union organizing. Similar, though locally

unique dynamics occurred in cases at the PT Dada factory in Indonesia, the BJ&B factory in the Dominican Republic, the Choi Shin factory in Guatemala, and the New Era factory in upstate New York<sup>x</sup>. These cases offer a potential model of more locally participatory, and accountable, global governance. This model involves:

- ◆ NGOs and/or unions targeting factories producing for branded MNCs that can garner media attention in the US or Europe. These groups often look for companies that are in one of the multi-stakeholder initiatives;
- ◆ NGOs and unions conduct research on potential cases on the ground in countries in which they have local partners or researchers;
- ◆ When a promising case (i.e., one with egregious conditions and potentials for solutions) is identified, the groups begin organizing to ensure there is worker capacity and the potential for a successful campaign. These groups need worker voices for legitimacy and effective accountability over solutions;
- ◆ The local and international groups jointly develop a strategy for the campaign;
- ◆ Sometimes a specific incident ignites the campaign, sometimes a research expose;
- ◆ The “fire alarm” is pulled and media attention is generated;
- ◆ A code of conduct is publicly invoked to show that the brand or retailer is not living up to their own public pronouncements and is violating the terms of their participation in a monitoring initiative;
- ◆ The monitoring group or groups are asked to evaluate the problem. A process is initiated where the WRC and FLA conduct investigations and negotiate with the brand and the contractor;
- ◆ External pressure is generated on the brand, such as through the United Students Against Sweatshops organizing a letter writing campaign, protests in front of company stores, email organizing, etc. Advocacy groups demand the brand or retailer solve the problems in the contractor factory, and explicitly not cut their contract;
- ◆ An international spotlight is directed at the case while a local “deliberation” is conducted;
- ◆ The brand works with the contractor to clean up the worst problems;
- ◆ If, or usually when, the contractor tries to oppose or co-opt the workers or renege on the agreement, international pressure is initiated again, focusing on the brand;
- ◆ Local organizing tries to take hold and to establish a union that can survive without outside support and monitoring;
- ◆ Local bargaining occurs over remediation of the problems in the factory, and seeks to create on-going means for negotiation between workers and management;
- ◆ The FLA and WRC conduct follow-up monitoring and establish systems of communication from local groups to Washington, D.C. to verify problems have been remediated and the worker rights are being respected.

This model – or some variant of it – which combines both top-down exposes and pressures in consumer countries, with bottom-up organizing and worker mobilization in producer countries, and sometimes surprising roles for brands in pushing contractors and local regulators, has been successful in a hand-full of cases around the world. And while it is extremely labor intensive and expensive, it appears that it can produce successful, participatory, locally accountable improvements in factory conditions.

## VIII. Designing More Accountable Global Governance

This schematic of more participatory and accountable non-governmental labor regulation, while certainly not proof of global trends, provides at least the outlines of strategies for promoting more effective and democratic non-governmental governance. These experiments highlight potential responses to current power asymmetries, information asymmetries, and legitimacy problems of existing initiatives. They also point to critical design features of more locally accountable global governance, such as: increased transparency, fuller local participation, mechanisms of local accountability, avenues for countervailing pressures, and space for local deliberation.

Increased transparency is the first, and perhaps most critical, element in advancing more accountable non-governmental governance. If concerned critics, and the public, can't see for themselves where and how products are being produced, and how problems are being resolved, these systems will continue to face widespread skepticism. Key stakeholders need information on locations of factories, results of inspections and audit reports, and details of progress in remediating problems. The FLA is moving toward increased transparency of this kind. And the WRC has established explicit systems for transferring information to both local stakeholders – unions, NGOs, workers, etc. – and international organizations, students, and the media.

Support for fuller and more meaningful worker participation in non-governmental regulation is also critical. Workers obviously should play a central role in identifying problems in these factories – as they are on the factory floor every day and have clear incentives (although also disincentives) to raise issues. But they should also be involved in negotiating solutions to problems and determining workplace conditions for the future. The WRC has experimented with local “Accountability Teams” that include workers (although not workers or union representatives from the factory involved in the dispute, in order to avoid conflicts of interest), local NGOs, and other local experts (such as human rights lawyers, academics, etc.). The WRC and Clean Clothes Campaign have also been pushing for greater worker participation in remediation and problem-solving processes, the creation of “deliberative arenas”, and systems through which remediation efforts are incorporated into collective bargaining processes. As Barenberg (2003, p.8) explains, “the substantive goal is to generate compliance norms that are, in some meaningful sense, autonomously shaped by local interests, and pragmatically suited to local problem-solving”.

A number of other experiments in worker participation have been advanced recently around the world that point to similar goals and dynamics. One interesting experiment in worker participation recently took place in two Reebok shoe factories in China. In factories in Fujian and Guangdong provinces in southern China, workers conducted open elections for their trade union representatives (Maitland, 2002).

These elections are likely the first of their kind in foreign-invested enterprises in China, and represent an important precedent in showing that workers can organize and elect their own unions. Reebok played a critical role in supporting and pushing the local factories (which are managed by Taiwanese and Hong Kong investors) to allow these elections. As one reporter noted, Reebok's

“aim with these elections is to produce a sustained improvement in working conditions by promoting better communication between management and the shop floor.... ‘It’s our hope that issues can be taken up by the worker representatives’, says Mr. Cahn [a Reebok Vice President]. ‘We have inspections of factories, both announced and unannounced. But you just don’t have the assurance that things will be the same the next day. Factories in China are incredibly sophisticated at finding ways to fool us. The best monitors are the workers themselves.’”

The Reebok experiment represents a small step forward on worker participation in China, and similar experiments have been reported recently in other foreign-invested factories in Guangdong, Fujian, Zhejiang, and Shandong provinces (Xinhua, 2003). Although it is still too early to evaluate the impact of these elections, the cases do show that MNCs can create windows of opportunity for worker organizing and real representation even in countries that seek to control or repress unions.

Another experiment of this nature involved creating and supporting workplace health and safety committees in contract factories for multinational footwear companies in Guangdong province in China (Szudy, O'Rourke, & Brown, 2003). This project sought to support worker participation in identifying and resolving problems inside factories, and in advancing broader systems of monitoring and corporate accountability. Participating factories (producing shoes for Adidas, Nike, and Reebok – all members of the FLA) created or expanded health and safety committees began regular inspections of production areas, and worked with managers to eliminate or reduce identified hazards. The committees also worked to develop new and better mechanisms for workers to report problems, new processes for identifying and eliminating hazards, and new systems of worker-management communication. In a number of cases, the committees have been able to identify and correct previously unrecognized hazards, as well as to highlight longstanding concerns of workers.

These committees and elections show that multinational firms can play a critical role in supporting, protecting, and even funding worker participation. While the space for independent worker organizing remains constrained in many countries, foreign firms can open small spaces for workers to participate in important factory decisions, and can create mechanisms to respond to worker complaints and concerns. Codes and monitoring organizations provide one arena through which to advance these experiments.

Voluntary initiatives of these kinds of course are more rare than regular. It is thus necessary to design non-governmental governance systems to take advantage of their main motivating force – civil society pressures on multinational firms. Adversarialism, pressure, and credible threats of lost sales are important motivators for the positive collaboration and joint problem-solving that some of these initiatives facilitate. It is thus necessary to design into these programs mechanisms for public input and countervailing pressure. Continuous pressure on firms to both be more open, and to accept that labor and environmental issues require continuous improvements, have been central in motivating changes, and in addressing the most intractable problems of sweatshop production.

Effective non-governmental regulation thus must facilitate public mechanisms of external pressure on brands and factory managers, and at the same time, motivate internal corporate mechanisms for finding problems, conducting root cause analysis, benchmarking solutions, experimenting, and implementing new systems of management and accountability. Essentially there is a need to create a balance between fostering conditions for workers, activists, and consumers to participate in finding and solving problems (often through pressuring firms), and creating conditions for collaborative problem solving. Creating space for local deliberation and worker participation, and supporting key enabling rights, are central to including workers more meaningfully in these processes and supporting their efforts to organize themselves.

Finally, there is a critical need to design these initiatives to strengthen and complement, rather than replace or weaken local state regulation. In two of the WRC investigations – in Indonesia and Mexico – it appears that external pressures and spotlights on local factories have actually helped to support local regulators (against other state interests) to do their jobs, and created space for compliance with local laws (Barenberg, 2003). This however, remains more the exception than the rule for non-governmental governance.

## **IX. Conclusion**

New non-governmental regulatory systems hold out both potential and peril. They offer the potential of opening up and strengthening regulatory systems, and bringing in new voices and mechanisms for motivating improvements in global supply chains. They also harbor the peril of privatizing regulation, effectively closing off democratic forms of regulation and bypassing local regulation by advancing top-down, elite governance systems.

In some regards, the distinctions between these systems are beginning to break down. There is some convergence underway in codes and monitoring regimes that is blurring the boxes presented in this chapter. Factory monitoring now sometimes includes union officials. Supply chain monitoring is employing NGOs to monitor factories. And NGO investigations are sometimes coordinated with powerful brands. Nonetheless, there are still critical distinctions between these initiatives on issues such as the roles of workers and advocacy organizations, transparency of results, and strategies for remediation of problems.

And there is certainly no guarantee that voluntary codes of conduct and monitoring schemes will naturally converge on more complete or democratic systems of regulation. They are just as likely to diverge into a plethora of initiatives competing for the hearts and minds of consumers, serving to confuse the public and undermine the credibility of non-governmental initiatives. However, with strategic policies and coordinated efforts, non-governmental regulation could instead move towards more credible, transparent, and accountable systems. A critical first step in this direction would involve monitoring organizations simply committing to making their factory audits and auditing methodologies public.

Another potentially promising avenue forward would involve efforts to build complementarity and inter-operability between these systems. Different models of

non-governmental regulation are effective at different processes. Factory monitoring identifies willing factories and gives managers information to support change. Supply chain monitoring helps move standards down out-sourced chains of production, and provides brands with information to better manage their suppliers. Independent investigations help to expose the worst actors, provide information to workers, and create incentives for brands to prevent problems in their contractors. Connecting these initiatives in some inter-operable way might help to overcome the challenges of access, scope, and credibility. Recent successful cooperation between the FLA and WRC indicates the potentials of combining complementary strategies and systems.

Each of these emerging systems has clear weaknesses and challenges. Nonetheless, under certain conditions, non-governmental regulation can influence factory labor practices. With increased transparency, improved technical capacities, and new mechanisms of accountability to workers and consumers, non-governmental monitoring could complement existing state regulatory systems. As they develop, new non-governmental regulatory systems should be evaluated along a number of criteria: (1) legitimacy – are key stakeholders involved in all stages of standard setting, monitoring, and enforcement? ; (2) rigor – do codes of conduct meet or exceed ILO conventions and local laws; are standards measurable; and is monitoring technically competent? ; (3) accountability – is monitoring independent, transparent, and accountable to local stakeholders? ; (4) complementarity – do non-governmental regulatory systems support state regulation and help to improve standards and monitoring methods?

Governance in the global economy remains a daunting challenge. If these experiments in non-governmental regulation can be made more transparent, accountable, and democratic, it may be possible to build non-governmental governance into an important response to the adverse impacts of globalization. At a minimum, non-governmental regulation offers a glimpse of emerging strategies to regulate global supply chains and to begin the process of building new systems of governance over a fast changing world. Locally accountable global governance may still sound like a paradox, contradiction, or at the minimum a daunting challenge, but it is exactly this challenge that is central to collective efforts to regulate the adverse impacts of global production systems, with admittedly new and fragile governance institutions.

## Endnotes

<sup>I</sup> As Nadvi & Wältring (2001), 34 note “despite the toothless nature of core labour standards, they have become a model for private social standards”.

<sup>II</sup> For comparisons of company codes see van Tulder & Kolk (2001), or company web pages such as [www.nikebiz.com](http://www.nikebiz.com), [www.gapinc.com](http://www.gapinc.com), etc.

<sup>III</sup> Private, for profit monitors include PricewaterhouseCoopers (recently spun off as Global Social Compliance), Cal-Safety Compliance Corporation (CSCC), Société Générale de Surveillance-International Certification Services (SGS-ICS), Det Norske Veritas (DNV), Bureau Veritas Quality International (BVQI), Intertek Testing Service (ITS), Merchandise Testing Labs (MTL), MFQ, Sandler & Travis (STR), Centro per l'Innovazione e lo Sviluppo Economico (CISE), RWTUV Far East Thailand, Global Standards-Toan Tin Vietnam, and KPMG. Non-profit groups include the US NGO Verité, the Guatemalan Commission for the Monitoring of Code of Conduct (COVERCO), the Independent Monitoring Group of El Salvador (GMIES), Phulki (a Bangladeshi NGO), and the Honduran Independent Monitoring Team (EMI).

<sup>IV</sup> Member organizations include Amana, Avon Products, Cutter and Buck, Dole Food, Eileen Fisher, Otto Versand, Toys R Us, and the UN Office of Project Services.

<sup>V</sup> FLA members include Adidas, Eddie Bauer, GEAR for Sports, Gildan Activewear, Liz Claiborne, New Era Cap, Nike, Nordstrom, Patagonia, Phillips Van-Heusen, Puma, Reebok, Zephyr Graf-X, Human Rights First, and the National Consumers League. Notably, several union and NGO members of the original AIP left the organization when it evolved into the FLA in protest of what they believed were insurmountable flaws in the organization and its monitoring procedures.

<sup>VI</sup> The FLA has to date accredited eleven organizations to carry out this “external” monitoring. Each of these monitors is accredited to inspect factories in specific countries. These include A&L Group, Cal Safety Compliance Corporation, Cotecna Inspections, COVERCO, Global Standards/Toan Tin, Intertek Testing Services, Kenan Institute Asia, LIFT-Standards, Merchandise Testing Labs Brand Integrity, Phulki, and Verite. As of June 2002, 982 companies had applied for certification, the majority of which were small university licensees.

<sup>VII</sup> These include the high-profile Kukdong garment factory (now known as Mexmode) in Puebla, Mexico; the New Era baseball cap factory in Buffalo, New York; the BJ&B cap factory in the Dominican Republic; and, the PT Dada apparel and stuffed toy factory in Indonesia. Other investigations have been conducted in India, El Salvador, Indonesia, and Mexico. These investigations have involved 6 to 8 people for 5-6 days each.

<sup>VIII</sup> Phil Knight, the CEO of Nike Inc., withdrew a planned \$30 million donation to the University of Oregon after their joining the WRC.

<sup>IX</sup> As one retailer in the ETI commented, “I can know my supply chain at 9 a.m., then by 10 a.m. it's all different”, ETI (2001).

<sup>x</sup> See reports on these cases at the WRC and FLA websites.

### Appendix 1 – Variations in Codes of Conduct

	<b>Fair Labor Association (FLA)</b> <a href="http://www.fairlabor.org">www.fairlabor.org</a>	<b>SOCIAL ACCOUNTABILITY INTERNATIONAL (SA8000)</b> <a href="http://www.sa8000.org">www.sa8000.org</a>	<b>Worldwide Responsible Apparel Production</b> <a href="http://www.wrapapparel.org">www.wrapapparel.org</a>	<b>Workers Rights Consortium (WRC)</b> <a href="http://www.workersrights.org">www.workersrights.org</a>
<b>Child Labor</b>	Minimum Age: 15; or 14 if country of manufacture allows; or age for completing compulsory education.	Minimum Age: 15; or 14 if meets developing country exemption; or local minimum age if higher.	Minimum Age: 14; or age for completing schooling; or minimum age established by law; whichever is greater.	Minimum Age: 15; or 14 if consistent with ILO practices for developing countries.
<b>Harassment and Abuse</b>	No employees shall be subject to any physical, sexual, psychological or verbal harassment or abuse.	No corporal punishment, mental or physical coercion or verbal abuse. No sexually coercive or exploitative behavior.	No harassment, abuse or corporal punishment in any form.	No employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse. No corporal punishment.
<b>Nondiscrimination</b>	No discrimination in hiring, salary, benefits, advancement, discipline, termination or retirement, on basis of gender, race religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.	No discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, disability, gender, sexual orientation, union membership, or political affiliation.	No discrimination on basis of personal characteristics or beliefs. Question about discrimination based on seniority.	No discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, political opinion, or social or ethnic origin.
<b>Freedom of Association and Collective Bargaining</b>	Where right restricted by law, employer shall not seek state assistance to prevent workers exercising right to FoA.	Where right restricted by law, employer facilitates parallel means for free association and bargaining.	Lawful right of free association, including right to join or not join association.	No employee shall be subject to harassment, intimidation or retaliation in their efforts to freely associate.



<b>Health and Safety</b>	Safe and healthy working environment required. Standard also applies to employer-operated facilities apart from production facilities (e.g. housing).	Safe and healthy working environment required. If provided, housing should be clean and safe. Steps taken to prevent accidents and injury. Regular health and safety training.	Safe and healthy working environment required. If provided, housing should be safe and healthy.	Safe and healthy working environment required.
<b>Wages</b>	Local minimum wage or prevailing industry wage, whichever is higher, and legally mandated benefits.	Legal or prevailing industry wage, and meet basic needs/provide discretionary income.	Legal minimum wage.	Legal minimum wage and benefits. WRC code requires paying a "living wage".
<b>Hours of Work</b>	48 hours per week and 12 hours overtime or the limits on regular and overtime hours allowed by the law of the country. One day off in every seven.	48 hours per week and 12 hours overtime maximum. Personnel shall be provided with at least one day off in every seven-day period. All overtime work shall be reimbursed at a premium rate.	Shall not exceed the legal limitations of the countries in which apparel is produced. One day off in every seven-day period, except as required to meet urgent business needs.	Not be required to work more than the lesser of (a) 48 hours per week or (b) the limits on regular hours allowed by the law of the country of manufacture, and be entitled to at least one day off in every seven day period, as well as holidays and vacations.

Sources: Organizational websites and MSN (2001b).

## Appendix 2 - US Monitoring and Certification Systems

	<b>Fair Labor Association (FLA)</b> <a href="http://www.fairlabor.org">www.fairlabor.org</a>	<b>SOCIAL ACCOUNTABILITY INTERNATIONAL (SA8000)</b> <a href="http://www.sa8000.org">www.sa8000.org</a>	<b>Worldwide Responsible Apparel Production (WRAP)</b> <a href="http://www.wrapapparel.org">www.wrapapparel.org</a>
<b>Scope</b>	Apparel and footwear companies. Licensees of affiliated universities.	Factories producing a wide range of products.	Apparel industry.
<b>Governance</b>	12-member board with 6 industry reps, 5 NGOs, 1 university rep.	Governing board has 5 members, composed of 1 rep from CEP (Council on Economic Priorities), 3 lawyers, and 1 businessperson. SAI also has an advisory board with more diverse membership.	Board of 3 officers and 8 directors form the Independent Certification Board. Primarily industry reps.
<b>Monitoring Process</b>	<p>Companies must conduct internal monitoring of at least one-half of their applicable facilities during the first year, and all of their facilities during the second year.</p> <p>Companies commit to use independent external monitors accredited and selected by the FLA to conduct periodic inspections of at least 30% of their facilities during their initial 3-year participation period.</p> <p>FLA staff selects factories with a focus on the largest and those with greatest risk of non-compliance. All monitoring must involve consulting local NGOs. Monitors will use a combination of announced and unannounced visits.</p>	<p>Manufacturers or suppliers are granted the status of “applicants” for one year until an accredited Certification Auditor verifies them. The SA 8000 Certificate must be renewed every 2 years.</p> <p>Specially trained local audit teams will be briefed by local NGOs and unions, speak to managers and workers and check the records of the factories. The SA 8000 “guidance document” is the SAI manual that assists the accredited auditors in fulfilling this task. NGOs are also encouraged to undergo the process of becoming an accredited SAI auditor.</p> <p>Factories self-select for certification.</p>	<p>Factories must undergo a three-step process: Self Assessment, Independent Monitoring, and Final Review and Follow-up.</p> <p>Factories contract and schedule selected Independent Monitors to perform onsite evaluations. Based on this evaluation, the Independent Monitor will either recommend that the facility be certified or identify areas where corrective action must be taken before such a recommendation can be made.</p> <p>Factories self-select for certification.</p>

<b>Certification</b>	FLA certifies an entire brand. A service mark will be developed so consumers know which companies are participating and which have met the standards for certification. Timely remediation, assessed by monitors and FLA staff, is required for certification.	Certification means that a facility has been examined in accordance with SAI auditing procedures and found to be in conformance. Auditors look for evidence of effective management systems and performance that prove compliance. Certified facilities are subject to semi-annual surveillance audits.	The WRAP Certification Board will review the documentation of compliance and decide upon certification. The term of certification will be specified by the Board, based on criteria of risk factors. Over the term of the certification, the facility may or may not receive an unannounced inspection to verify continued compliance.
<b>Company Requirements</b>	Companies must implement the FLA Code; internally monitor every factory every year according to FLA monitoring principles; and participate in independent external monitoring every year. All internal and external monitoring must include local NGOs.	Manufacturers/suppliers adopt a program to pursue SA8000 certification. Retailers become "SA8000 Members" and publicly announce their commitment to seek out socially responsible suppliers and assist suppliers in meeting the SA8000 social standards.	Factories must meet WRAP principles and bear all costs of certification. Factories must apply, be registered in the WRAP Certification Program, and perform self-assessment of its facility with the WRAP Handbook to determine if their facility complies with the WRAP Principles.
<b>Reporting</b>	All internal and external monitoring reports will be provided in full to the FLA staff. The FLA will evaluate audits, jointly develop remediation plans, and then publish summary reports of audit remediation results.	Audit reports go to the companies and to SAI. Other parties can only receive them after having signed a confidentiality agreement with the company management and the audit company.	Audit reports are provided to factories and the WRAP board.
<b>Public Disclosure</b>	Annual reports on each company based on internal and external monitoring. Participating companies are publicly listed on website. No disclosure of locations of certified factories.	The public is informed only of factories granted certification.	No public reporting. No mention of sites that receive, fail, or lose certification.

Sources: Organizational web sites and MSN (2001b).

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University College, Oxford OX1 4BH

Tel. +44 (0) 1865 276 639 or 279 630  
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