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ALTERNATIVE REGULATORY MECHANISMS FOR ETHICAL AND FAIR TRADE: A VIEW FROM THE SOUTH

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Abstract: This paper focuses on approaches to the regulation of global supply chains through mechanisms alternative or complementary to State agencies, using public interest criteria promulgated by international covenants and the laws of the States in the chain. It describes three kinds of alternative mechanisms: self-regulation, co-regulation and stakeholder regulation. Five examples in the Philippines are then compared and analyzed as to the benefits derived and problems faced by Southern stakeholders.

Globalization in trade has made possible the production of goods and services without nationality, their raw materials, assembly, promotion, sale and consumption taking place in various countries along a complex global chain. Their main identifier is the brand name they carry, and they would be of the same quality whether manufactured in sparkling factories of the North, or sweatshops of the South. The workers are anonymous and the conditions in which they work are of little interest to those who finally buy and consume them. Given these, it is in the interest of corporations to find the factories that will provide its products at the lowest cost, and for those factories, in turn, to seek to cut costs wherever they can. They could pay lower wages, scrimp on overhead, ignore safety and the environment, and hire women and children, the cheapest labor of all. It is assumed that this is what any corporation would do – were it not for regulation. But who would regulate, what are their tools, and how effective would they be in a global situation such as this?

The usual regulator is the State, and it is so assumed in the prevailing concept of regulation provided thus: “sustained and focused control, *exercised by a public agency*, over activities that are valued by a community” (Selznick 1985, italics supplied; cf. Minogue 2001). However, for various reasons, the State alone has not been viewed as an effective or satisfactory regulator. This has given rise to “alternative regulatory mechanisms” (ARMs) where the State is not the main actor, or may not even be an actor in the process. ARMs are fairly new and relatively unknown. It is thus opportune to identify their varied manifestations, describe how they carry out their mandate, and to the extent possible, suggest what may be their effects on the global supply chain, particularly at its Southern end. Being the first study of its kind in the Philippines, our objectives can only be modest.

Our interest in alternative regulatory mechanisms has been fueled by several converging concerns. First is our long-standing interest in the discipline of public administration whose boundaries have been expanded with the embrace of the “governance” perspective and its concomitant changed view of the role of the State. Second is our interest in the development of global civil society, an oft-ignored aspect of globalization, and its possible effects on the concept of citizenship and rights in a borderless world. Third is the issue of regulation itself, particularly its complexity in the age of deregulation and globalization which increases not only the number of persons

involved but also the stakes they may hold. These have guided our choice of this study. However the lines of analysis these perspectives require are not yet fully articulated in this initial work.

The Philippines and the United Kingdom are the primary Southern and Northern ends of the global supply chain studied here partly for the expediency interests of the authors. In addition, the United Kingdom is the main initiator of the Ethical Trading Initiative which was the starting point of this work.

Meanwhile, the Philippines commends itself as a locus of study because of the activeness of its civil society and its leading role in promoting corporate social responsibility to business and industry. At the same time, the country has been hard-pressed to effect the high standards it has avowed in the international covenants it has signed and the labor, environmental and human rights laws it has enacted. For instance, it has signed 30 international agreements pertaining to labor since 1953. However, its resources for regulation are woefully inadequate. The Department of Labor and Employment has only 209 labor inspectors to cover 809,460 enterprises all over the country. To make its coverage more meaningful, therefore, it has decided to allow voluntary compliance of the 743,426 enterprises with less than 10 employees, and to put under self-assessment the largest firms (those employing 200 and more workers, which total to 2,594) and unionized firms with certified collective bargaining agreements regardless of number of workers. This has effectively left it with only the medium-sized firms, which number about 63,440, although the first two types of firms may still be subject to spot checks (Manzala 2004). Their current standard is for a DOLE staff to evaluate 1.5 establishments a day. That is an unrealistic estimate because those doing labor inspections are also hearing officers and have other duties besides (Torres 2004). Thus, through the Implementing Guidelines of the Labor Standards Enforcement Framework (DOLE Order No. 57-04), the Department has tried to expand its reach through partnership with labor, employers' organizations, professional organizations and government agencies with a stake in the welfare of workers (Manzala 2004). This opens the way for the alternative regulatory mechanisms tackled in this paper.

Certain government policies are also perceived to be against workers' interests. For instance, promises to lure investments include low wages and tight controls on labor. In export processing zones, a "no strike, no union" policy, though not written, is clearly in effect.

The impetus for the mechanisms under study here has largely come from the North although the main activities regulated take place in Southern locales. This does not seem to be because the standards used are only "Western values." Indeed, like all regulation, the public interest is the paramount objective. What is in the public interest is operationalized here in terms of international covenants and national laws. However the Northern lineage of the ARMs may suggest inequality of resources, both in terms of funding and of ability to bring together all stakeholders to agree on the contours of regulation to be instituted.

Philippine Examples of Alternative Regulatory Mechanisms

Alternative regulatory mechanisms are so-called because they are supposed to take the place of the State. This is not the case in all the mechanisms we have studied. Heeks and Duncombe (2003) have suggested that they be called “supplementary,” rather than “alternative” in that they are usually an addition to State regulation. However, “supplementary” may also suggest the primacy of State regulation which, except in the strictly legal sense, would not hold here. In fact, it is the perceived inefficacy of the State that has called these mechanisms into being. It is for these considerations, and because ARM has been more generally accepted, that we have decided to stick to “alternative” rather than “supplementary” as qualifying adjectives of our main concept.

ARMs may be divided into three categories: self-regulation, co-regulation, and stakeholder-regulation. Self-regulation is done by the corporation or the organization of which it is a part. Our examples are a company’s code of conduct, and subscription to the Global Compact Initiative. Co-regulation is undertaken by the corporation along with the State and other stakeholders. Our case is the Social Accountability International which is a tripartite body to which a company may subscribe.

Regulation by other than the self and/or the State may be called stakeholder regulation. Three kinds have been recognized: (a) market regulation either by labor and capital markets (“supply regulation”), or by product or consumer markets (“demand regulation”); (b) peer regulation or actions by peers and competitors; and (c) advocate regulation or actions by local citizen groups and/or international non-governmental organizations (Heeks and Duncombe 2003). We will describe the Fair Trade Alliance as an instance of peer regulation, and the Ethical Trading Initiative as an example of advocate regulation.

Table 1. Alternative Regulatory Mechanisms and their Philippine Examples

1. Self-regulation	Company code of conduct (CCC)
	Global Compact Initiative (GCI)
2. Co-regulation	Social Accountability International (SAI)
3. Stakeholder regulation	
a. Market regulation	(No example)
b. Peer regulation	Fair Trade Alliance
c. Advocate regulation	Ethical Trading Initiative

These mechanisms will be discussed in terms of the standards used, the processes each focuses on, the regulators involved, the actions and early appraisals made by the actors at the Northern and Southern ends of the global supply chain. Then we will compare and contrast these approaches as to their effectiveness as regulatory devices, particularly from the perspective of Southern stakeholders. Lastly, we will attempt to summarize their contributions to the State, global civil society, and the development of regulatory governance.

Self-Regulatory Mechanisms

Company code of conduct. We have two examples of self-regulation: the company code of conduct (CCC), and involvement in the Global Compact Initiative (GCI). A code of conduct is promulgated by a company on its own, and expresses the principles it lives by and how it expects to abide by them. For instance, the Nike Code expresses its stand against forced labor and child labor and its commitment to just compensation, benefits and hours of work, and environment, safety and health standards. It also directs all its contractors to follow these principles and requires them to maintain on file all documentation needed to show compliance with the Code. The Code is translated from English to seventeen other languages including Tagalog, the base of the Philippine national language (Nike 2003).

The recent popularity of codes of conduct may have been fuelled by the consumer movement in the North (Honculada 2004). In the early 1990s, activist NGOs, including Oxfam and Christian Aid, produced a code that incorporates the improvements of working conditions about which they had been raising the awareness of consumers. To their surprise, the criticized companies responded by adopting their own codes (Burns 1998).

A company code of conduct (CCC) may be done by a multinational in behalf of all its branches and contractors (Honculada 2004), as Nike has done. Since a CCC is voluntary and is not the result of a campaign by employers' organizations, there is no central register nor even an estimate of how many corporations actually draw up such a code. Also, because the code of conduct involves no other stakeholders, there is usually no participation by anyone outside management and the board, and no verification by unions or anybody else. However, a company may set up a monitoring office with separate desks for each value to be promoted (e.g., a human rights desk, an environment desk, etc.). Some firms may invite external researchers to monitor their compliance. The companies may also let the public know of their adherence to a code in their website (see, e.g., Nikebiz.com) or in news and features in print and broadcast media.

The benefit to the MNC of a code is the promotion of an image of corporate social responsibility, which would signal to consumers that they are getting ethically produced goods. Women Working Worldwide (WWW), an NGO based in the UK, is skeptical: "Experience shows that most companies cannot be trusted to implement their own codes." Besides, it may be abandoned in the face of stiff competition from rivals that do not bother with such a code. At the same time, WWW expresses fear that if the company is serious about its code, it could incur a heavy burden in the internal monitoring of all its units worldwide, which may lead it to formalize its supply chain. That in turn may lead to loss of jobs in the informal sector, especially for those working at home (Hensman 1998).

Awareness about the CCC is low, even among laborers of companies with it. Thus, WWW has initiated a project to educate workers about the code. In the Philippines, that project was undertaken among women workers in the Baguio City

Export Processing Zone (BCEPZ). The workers expressed the view that a code would have not be able to protect their rights. First, companies would not want to get caught violating their own rules, and thus would make their code as general and as safe as possible, vitiating any possible workers' rights that it could purport to protect. Second, if a company were scrupulous, local contractors to whom it would impose its strict standards may opt to work with the more numerous non-CCC firms. This would leave workers vulnerable anyway since they would have no choice but to accept jobs from these non-CCC firms. Third, with no verifying body, a company can easily violate its own rules. Thus, the workers have suggested that there must be a genuine union to serve as verifier (Viernes 1998).

Global Compact Initiative. The Global Compact Initiative (GCI) arose out of the challenge of Kofi Annan, Secretary General of the United Nations to the World Economic Forum in Davos in 1999. Later taken up as an institutional advocacy of the United Nations, GCI calls on businesses to adhere to three principles covering labor rights, human rights and the environment. These are embodied in nine simple statements. A tenth statement, against corruption, was added in 2003.

In the Philippines, GCI is promoted by the Employers Confederation of the Philippines (ECOP), an organization of the top 500 corporations of the country, along with 50 or so chambers of commerce and other business organizations. GCI is also supported by other major business and industry associations as well as business-linked NGOs like the Philippine Business for Social Progress and the Philippine Business for the Environment.

ECOP considers GCI as the heart of its agenda and the Philippines has reputedly the biggest number of subscriber-corporations in any country (Moya 2004). Forty-four companies signed up with GCI at its Philippine launch in September 2001. At present, almost 300 companies are participating in GCI. ECOP has published a casebook detailing how six of them have undertaken their responsibilities under the Global Compact. It is noteworthy that all these corporations are large market leaders and therefore not effectively subject to DOLE inspection at all. Self-regulation is thus the only mechanism at present that would commit them to these standards (ECOP 2003). However, because a company's subscription to it is filed with ECOP and with the UN-GCI, there is greater transparency and more of a pressure to adhere to its terms. As in a code of conduct, however, there is no instrument for verification although corporations have to renew their subscriptions periodically.

The six companies in the casebook¹ are not newcomers to ethical practice. All have promulgated an internal code of conduct prior to their entry to GCI. They have made steps to improve their labor and environmental practices and have paid attention to the communities where they are located. All have put up a mechanism for improving relations with labor (such as a labor-management council, child-friendly programs) in

¹ Of the six companies, two are the Philippine companies of MNCs, two are Filipino companies, one is a joint venture of two foreign companies, and the sixth is a Filipino-Japanese joint venture (ECOP 2003).

addition to having unions. They reach out to their local hosts (for instance, through community-based hiring). One corporation already has an SA8000 certification while another one is looking forward to winning one, explicitly to belie the notion that those who go through certification processes are “bound to close” (Ortiz and Sonza 2003: 55).

Co-regulation

Social Accountability 8000 is a voluntary set of standards adhered to by government, employers, and labor. Based in New York, it was launched in 1998 by the Council for Economic Priorities Accreditation Agency (CEPAA) of the United States and has a tripartite board composed of government, labor unions and employers². CEPAA was created in 1997 due to the public outcry against inhumane working conditions in developing countries. It is now known as Social Accountability International (SAI).

SA8000 is of two types. First is membership, designed for retail businesses that commit to do business only with socially responsible suppliers. SA8000 members receive a self-assessment package to enable them to implement their social responsibility policy. They also pledge to notify their suppliers both of their intent to adopt the SA8000 standards, and of their phase-out deadline for those who cannot comply. They then submit an annual report on their progress towards the SA 8000 objectives that are then verified by SAI. Although not stated, this first route usually affects the Northern end only.

The second type is the corporate involvement program (CIP) that accords certification to manufacturers and suppliers. This one is more directly beamed at manufacturers with Southern branches or linkages. The rigorous process involves three steps. The “member-applicant” stage starts when a corporation informs an accredited auditor of its intent to join SA8000 and ends when it receives the status of SA8000 applicant after a test of how its current practice complies with the provisions of SA8000. The “pre-assessment audit” (also called “pilot audit”) stage is when the business puts in place its SA8000 program and makes improvements in answer to problems found during its application period. These two stages seem to be incorporated into what is now called SA8000 Explorer or CIP Level One. In the third stage, the company enters CIP Level Two or the status of SA8000 signatory. Here, the firm is assessed, and if found fully compliant, receives an SA8000 certificate, valid for three years. An SA8000 signatory must implement the SA standard over time in some or all of its supply chains and communicate its progress in the process through SAI-verified public reporting (IISD 2002; SA8000 2004).

SA 8000 incorporates core labor standards embodied in ILO conventions, OECD Guidelines for MNCs, the United Nations Global Compact and Philippine laws. It includes nine key areas: forced labor, child labor, discrimination, freedom of association and collective bargaining, health and safety, working hours, compensation, disciplinary practices, and management systems. The last covers the structures and systems that the company must adopt to ensure that compliance with the standard is continuously

² The secretary general of ITGFWF Philippines sits in the board (Adviento 2004).

reviewed (IISD 2002). Aside from accreditation, SAI also undertakes research and development, improving auditing effectiveness, technical assistance and training, and outreach and alliance building (SA 8000 2002). SA 8000 claims that it is “the first attempt to set up a global system of inspection on workers rights” (SAI, nd).

In the Philippines, SAI is centered on the garment, textile and leather industry. The stakeholders involved are the following:

- Individual employers that register with the SAI³
- The Philippine affiliate of the International Textile, Garment and Leather Workers Federation (ITGLWF), representing labor, and
- The DOLE Institute of Labor Standards (DOLE-ILS), representing government.

The employers are usually ECOP members. They apply to be part of the SAI, buying the SAI Primer (est. cost: US\$15,000). If accepted, they then acquire 15 volumes of the standards and implement them in all their sites. Employers pay each year to undergo “social auditing” by one of ten international auditors certified by CEP. The social auditors, in turn, ask labor unions to verify the company claims (Adviento 2004). Large auditing firms like Price Waters, SGS, and Philippine multinational Sycip, Gorres and Velayo (SGV) have developed their own Social Audit Units for this purpose. Social auditors look for verifiable objective evidence of compliance with the SA standards. All firms are certified to the applicable level of standard. They are given one year to fill gaps noted by the Social Auditors. The SAI also provides for complaints and feedback, including, and especially, from labor unions. As of mid-2004, twenty Philippine garment companies have been given SA 8000 certification.

SAI involves stakeholders more than in self-regulation. Northern consumer organizations promote the SA8000 seal, a sign of something good even if individual buyers may not know what standards are involved. In addition, Northern suppliers who are represented by the Foreign Buyers Association in countries where they are sourcing, seek from them not only the cost of business, and capability to fill orders, but also “clean clothes,” as it were. On the other side, Southern producers, if an MNC, would likely be a member of SAI as a branch of the Northern supplier. As such, they would get publicity as socially accountable employers and receive added value for their exports. The voice of Southern labor, too, is being heard, the reason SAI has received the all-out support of labor unions in garment, textile and leather factories (Adviento 2004).

Stakeholder Regulation

Peer regulation. We have no example of market regulation, but have Fair Trade Alliance (FT) to represent peer regulation, and Ethical Trading Initiative (ETI) to represent advocate regulation.

Fair Trade traces its history back to 1948 when the Oxford Committee for Famine Relief (Oxfam) raised money for war-torn Greece through the sale of donated products.

³ Adviento (2004) identified ECOP as the employers’ representative. However, ECOP maintains that it is only implementing GCI at present (Moya 2004). In any case, most of the SAI firms are ECOP members.

Its idea of “trading for a cause” or “alternative trade” was picked up by *Fair Trade Organisatie*, the youth section of a Dutch Catholic political party which started with livelihood projects for the poor in Haiti, and eventually came up with the idea of buying their products and re-selling them to markets in the North. As these products became popular, federations of producer-marketing organizations in Europe (European Fair Trade Association, EFTA) and the United States (Fair Trade Federation, FTF) were established aimed at mainstreaming the production and merchandising of so-called FT products.

The FT process works like this: a Fair Trade organization (FTO) buys products directly from producers (usually from the South) at fair prices and sells them (usually in Northern outlets) at real market prices. These goods carry the Fair Trade Mark, the TransFair or a similar label that certifies that their producers receive fair wages, work in cooperative workplaces rather than large-scale manufacturing plants and sweatshops, and engage in environmentally friendly practices. FTOs must also respect the cultural identity of the producers and educate consumers about the importance of purchasing fairly traded products (Quibilan c.1996). The FairTrade Mark, for instance, is an independent consumer label given by the Fair Trade Foundation, an institution set up by development agencies. The Foundations checks that a product meets its standards before giving its seal of approval (Y undated). FT’s primary goal is to benefit the producers by cutting intermediaries and overhead costs so that they receive “a fair price and a better deal” (Y undated).

Marketing in the North is carried out by companies like the Traidcraft Exchange in the UK. Traidcraft publishes a lavishly colored magazine simply called “Y” which markets goods with the FairTrade Mark. Y is financially supported by the European Union and a private-sector firm, CWS Ltd., Manchester. One issue featured, among others, “a luxury continental chocolate made in Switzerland...(with) organic cocoa beans from Bolivia and organic muscovado sugar from the Philippines.”

Northern NGOs introduced fair trade to the Philippines in the 1970s but the idea did not catch on until the late1980s.⁴ Among the Philippine FT products are bamboo trays and shell products, *muscovado* (brown sugar), fresh bananas and banana chips. These are marketed by such firms as the Panay Fair Trade Company (PFTC), the Philippine Global Exchange, Social Action for Rural and Urban Development, Inc. (SAFRUDI), DevLink, and the Community Crafts Association of the Philippines (Quibilan c 1996). An Alter Trade Group has also joined them. It is composed of Alter Trade Corporation, established in 1988 for both domestic and international trading, Alter Trade Manufacturing Corporation (est. 1992) to handle sourcing of raw materials, sugar milling and packing, Diversified Organic Enterprises, Inc. (est. 1997) producing organic fertilizer and the Alter Trade Foundation, Inc., a non-profit corporation to integrate the activities of the other three. Based in Bacolod City where only a decade before people faced starvation due to the precipitous decline in the price of sugar, the Alter Trade Group’s existence is a testament to the growing attractiveness of what it calls an

⁴ Mike Cruz, program officer of Oxfam UK’s Fair Trade Program in the Philippines, traces this to the earlier preoccupation of NGOs to campaign against the dictatorship of President Ferdinand E. Marcos. He was ousted in the People Power Revolution of 1986 (Quibilan c. 1996).

“alternative economic system based on the sustainable development of the people” (Alter Trade Group 2003). Except for the Foundation, all the organizations named are for-profit companies that have embraced FT’s alternative trade principles. In addition, a few people’s organizations have already tied up with acceptable MNCs like Body Shop, an all-organic cosmetic company.

FT is not yet “a significant option in alternative income-generation schemes of development NGOs” (Quibilan c. 1996). Partly this is due to the reluctance of NGOs to propagate schemes that put them into a capitalistic mode, regarding this as a sell-out of their principles or a pressure for them to join “the unjust economic system.” However, it is not clear how livelihood projects can flourish if profits are not earned. In any case, the ideological debate is still going on in the country. At the same time, both NGOs and the firms still need to develop skills in entrepreneurship, marketing and other business skills. They may also need to pool resources to minimize freight costs and other expenses and to promote FT products more aggressively.

According to EFTA, fair trade grows by ten to 25 percent in European markets yearly. FTOs are estimated to return as much as 50 percent of the retail price of an item to producers. Some key products like coffee and coconut have taken a small but significant part of traditional markets, thus forcing some mainstream (non-FT) companies to rethink their trade practices (Quibilan c. 1996). That effect is practically the textbook definition of “peer regulation.”

FT seems like a win-win situation all around, with producers getting a fair price for their products, consumers enjoying “guilt-free shopping,” as *Y* quotes comedian Victoria Wood, -- and competitors uncomfortable. Its major problem is sustainability and continued viability. Many marketing organizations are still partly supported by development agencies or are continually facing struggles, not only of survival but also of facing the difficult “dilemma of ideology and commercial reality” (*Y* undated, quoting Terry Hudghton, a corporate and marketing manager of a UK co-op).

Advocate regulation. Advocate regulation is represented by the ethical trading initiative (ETI). ETI came about because of the need to monitor and verify CCCs, which, as already mentioned, cropped up when NGOs raised labor awareness in many of those companies. The idea for joint action was brought up by a major UK food retailer (Sainsbury’s) that asked the NGOs to invite it and other companies to discuss the problem. These discussions gave rise to the need for a monitoring organization that would be composed of NGOs, the companies and trade unions. ETI was then formed in May 1997, with support from the British government. In September 1998, the NGOs in ETI consulted workers’ groups in the South, resulting in a Southern network to work with Northern NGOs. As in SA 8000, companies that wish to join ETI must incorporate its principles in its company code. However, ETI does not “endorse companies, certify suppliers or accredit auditors.” (Burns 1998). Instead, it raises awareness through workers education, labor union organizing and research in selected companies. In the North, ETI is both consumer advocacy and a desire of wholesalers and retailers to ensure that their merchandise comes from manufacturers upholding ILO conventions. In the South, its

focus is then on the working conditions of garments, textile and leather sector, just like the SAI.

In Asia, ETI is spearheaded by Working Women Worldwide (WWW), an intermediary organization (IMO) affiliated with the Christian Conference of Asia and British Protestant Churches. WWW has commissioned studies of MNCs in different Asian countries to study the global supply chain linking a specific corporation to their country. In the Philippines, WWW chose two researchers affiliated with the Kilusang Mayo Uno (KMU, May 1st Movement), probably the most militant federation of labor unions in the country, to examine working conditions in a giant MNC.

The team tracked production for a multinational for three years, studying subcontracting in the Philippine garment industry. The industry is the top export earner in the Philippines but is almost totally dominated by foreigners. This is because more than 2/3 of all garments is exported and controlled by foreign buying houses. Besides, raw materials are almost wholly imported. They found extremely low wages since local manufacturers profit by lowering the piece rate price of job orders. For instance, workers receive an average daily wage of \$2.30, or PhP97, about half of the minimum wage (PhP195) (Reyes 2000). This is higher than the average earned by women who sew tassel ends for mufflers and shawls. They are paid forty-one cents a bundle, versus US\$1.40 that the subcontractor receives per bundle. At the average, the workers finish four bundles a day and thus receive US\$1.64 daily. However, the contractor, with a minimum of 80 sewers earns \$316.80 daily (WWW 2003: 21). These and other research results were forwarded to the MNC's head office.

The MNC responded with two strategies: internal monitoring, and a global partnerships program. For internal monitoring, the company has created a Global Compliance Department with 90 employees from more than 25 countries. In 2002, the Vendor Compliance Monitors made over 13,000 announced and unannounced visits to about 3,000 factories worldwide. Under the Global Partnerships Program, the corporation collaborates with key groups that feed back problems to labor groups, community leaders and NGOs. It has also piloted independent monitoring projects (In Central America as early as the mid-nineties (WWW 2003: 25-27). In the Philippines, the corporation has asked the WWW researchers to monitor its performance on a continuing basis. The offer has raised questions in the researchers' minds, particularly about the fate of their advocacy and their independent status (Reyes 2004). WWW finds independent monitoring to be too resource-intensive, in funds and researchers and prefers that the corporation develop "an experienced and fully dedicated internal team" (2003). However, if internal monitoring does not work in tandem with independent monitoring, ETI would face the same problems as CCCs.

The interest of the Northern consumers to get ethically produced goods would seem to be rewarded by the corporation's acceptance of the ETI's findings and possible changes in production methods. On the part of the Northern merchandisers, they would be seen as socially responsible in sourcing only ethically produced goods. The MNC itself, though severely criticized in the study, may become a winner for its gracious

acceptance of the criticisms and the hope that it will sustain the changes in the working conditions of its Southern producers on its own.

Comparison of the Mechanisms: The Southern Perspective

The five schemes we have presented are all relatively recent attempts to see to it that the conditions of producing goods and services are up to the standard of existing international covenants and national laws. None of them has produced a new standard. SAI describes its objectives simply “to maintain just and decent working conditions throughout the supply chain.” Thus, in a sense, their very presence is an indictment of the State’s inability to implement its own laws, and of businesses’ widespread capacity to ignore them. The situation indeed calls for strong regulation. But instead of the State, it is civil society and business that have come forward. Would their strategies be able to improve the situation? This is what we will attempt to answer in this section by looking at the incentives and burdens, first on the companies, and then, on the workers.

Incentives and Burdens for the Companies

The major incentive provided by all the mechanisms for the companies is to get a good name, and perhaps even prestige. The source of that good name, however, varies.

For CCC, it is primarily internal, a sense of satisfaction that it is doing something good. Ironically, if made as a part of its public relations program, the good it does may be cheapened. For instance, if the company publicizes it or if it becomes a ready answer to criticisms (as ETI found among many corporations), the act of making a code may be perceived as simple window dressing. It will contribute to the prestige of a company only if sustained and noticed by stakeholders without the firm calling attention to itself.

On the other hand, a CCC can be very inexpensive, depending on its centrality in the company’s work. It may entail as little as the cost of the paper on which the code is written. It can become more expensive as the company adds implementation strategies: an internal monitoring office, inspection trips to its contractors and suppliers, seminars on the standards in headquarters, branches, and out-contractors, and so forth. It would then have costs its competitors would not have, placing it in a disadvantage before them.

A firm may also incur other costs for its decision to have a code. It may open it to pressures to unionize, with the potential conflicts and burdens that could bring in its wake. As it tries to discipline its contractors to comply with its new standards, they may respond by moving their business to other companies which are not as exacting. It would then have to contract with and train new out-sources.

For companies on the Global Compact, the good name is received practically as soon as it enlists and can be perceived as a reward for the mere fact of accepting the challenge. However, if the companies in the ECOP casebook are any indication, the GCI firms have already earned that prestige through years of being the market leader in their

respective fields and awards they have garnered in various areas of labor, community and environmental relations. By the time of subscription, they have already received plaudits from other stakeholders, especially labor and the host communities. Perhaps the GCI is an additional feather in their cap that gives them added impetus to continue their good work. It is also arguable that by being the pioneers in GCI, they become the beacon for others to join.

The six companies have hardly incurred any marginal cost for joining GCI, since their socially responsible programs have been put in place long before, and in what looks like a leisurely pace. They are also secure enough to know that their compliance with the standards is not going to affect their business negatively.

It may be noted that if a company makes a code of conduct before it is denounced for poor labor practices by external monitors, they could receive the same assessment that we had just accorded to GCI corporations.

ETI and SAI firms fare much like CCC and GCI companies, respectively. ETI is an independent monitor that by its nature focuses on producers that have been criticized or at least are in an industry that is known to harbor sweatshops. Thus, the value of ETI for a company is not so much to acquire a good reputation but to clear its name. The response of the lone corporation ETI focused on shows how a company may profit from this negative singling-out process: the combination of internal monitoring and partnerships with other stakeholders, including an offer for the WWW researcher to continue as its external monitor. However, like the companies that produced a CCC only when denounced, ETI-assessed companies would probably have to put monitoring and verification programs in a hurry, with the additional costs that such haste requires.

SAI subscribers would get publicity as socially accountable employers and receive added value for their exports, much like GCI companies. The rigorous independent and regular verification they undergo will make their claims even more credible than the GCIs, because not all of the latter will have to undergo the one-time scrutiny of ECOP case-writers.

The financial cost they will incur to acquire and then to maintain SA8000 certification is high, and probably outside the reach of all but the most affluent corporations. Among all our cases, the SAI companies are the only ones bearing this high cost of regulation. If this is what is financially required to keep companies verifiably compliant of labor and other standards, it is no wonder that a cash-strapped government fails to effectively implement its mandate. However, since no company would seek regulation as a losing proposition, it could also suggest that the returns it receives from its stakeholders must be tremendous. These could take the form of industrial peace, a welcoming community, and a big number of customers that value its socially responsible practices.

Among the five, the reputation Fair Traders get is somewhat different: not only an image of social responsibility, but also one as a social pioneer in a new economic order.

These companies have consciously given a higher share of profits to the workers and would therefore have a proportionately smaller profit than another company with a similar level of business. Aside from reputation, what keeps these companies going is the fact that they are all new and they have never tasted the (obscene?) profits their competitors have. Thus, they are not paring profits, the way all the other regulated companies we have studied are, as they get involved in these alternative regulatory mechanisms.

Benefits and Burdens on the Workers

The workers potentially would benefit from improved deals from the companies, in terms of better pay, working conditions and over-all relations with management. The likelihood of these benefits would differ depending on the ARM used.

The CCC firm may simply keep its good intentions on paper, unless its stakeholders force it to make good on its word. As we have seen earlier, Baguio City eco-zone workers who are un-unionized are not optimistic about being allowed to form one by a CCC company, and are also therefore skeptical that they will have better working conditions because their employer wrote a code of conduct. They also do not expect the government regulator to be their advocate because it is more into attracting foreign investments than enforcing labor rights. Even some workers would turn a blind eye to window-dressing codes just so they can keep their jobs. Thus, unless the company has maintained good labor practices before putting out its CCC, workers would probably not get improved treatment despite its presence.

GCI also does not have the means to assure workers of better working conditions. However, since they joined GCI voluntarily and have an earlier record of social responsibility, their workers are probably treated better than in the average firm. Workers may not receive new benefits because their firms joined GCI, but the value they would get is a greater assurance that its good labor record and environmental record would be maintained. This would come about because GCI firms have one over CCCs: the pressure of like-minded companies, ECOP and the GCI organization to keep them to the straight-and-narrow. CCC, meanwhile, are going it alone. This advantage of GCI can be maintained only if it or the ECOP spices up its Covenant with sustainability monitoring, recognition for exemplary performance, meetings of GCI companies to keep the solidarity strong, and dialogues with their unions as a substitute for independent regular verification.

Workers in ETI-assessed companies have roughly the same potential benefits and burdens as those in CCC firms. Their only advantage -- a vital one -- is that an international NGO is behind them. ETI provides worker education which gives them tools on how to organize and how to confront management with their demands. They are also more knowledgeable about the company's pay and profit structure. Thus, they can negotiate to have unions and make demands for a fairer wage structure for all types of workers all along the supply chain. However, all this is potential because firms

shadowed by the ETI may refuse to allow unionization, and ETI does not have sufficient resources to insist on unions, or to act as its functional equivalent as a monitor.

Workers in SAI companies fare much better because they are not only in the supply chain; they **are** in the regulatory structure as well. The union is an indispensable part of the SA8000 certification and the company's compliance with all labor standards is a must. The main problem here is that with SA8000 so expensive, its scope will probably be very limited, and therefore, the proportion of employees who will profit from it will also be small.

In the FT, workers get better returns for their labor because they own the producing company, which may be their cooperative or their community organization. They should only watch out for sustainability problems that beset cooperatives in the Philippines: poor management, lack of accountability of officers, a tendency to put their money in imposing but dead investments like buildings and the like, once a certain level of earnings is attained.

Summary and Conclusions

Alternative regulatory mechanisms, as we have seen, are capable of many manifestations, each of which has its own methods, organizational structures and standards. Each also produces a different set of benefits and burdens for companies and workers. In one point do they seem to agree: a certain dissatisfaction with the performance of the State, which would have been the chief regulator and implementor of the many international covenants and laws that it has signed. In only one, the SAI, is it recognized as a formal player, but even here it is more of a silent partner than anything else since it is the international NGO that the tripartite group has created that plays a major role.

In one sense, the state of affairs follows the neo-liberal stricture that the State must withdraw from direct provision of services. In what we have seen, it has restricted itself practically to simply being an enabler, from which laws and standards come, rather than an active player in the global supply chain arena that we have studied. We think, however, that this is not the ideal situation, considering that these five mechanisms, which are the most popular types of ARMs in the Philippines if not in the developing world, involve only a very small group of companies. It is fortunate that they are for the most part the market leaders and thus potentially able to influence the total economy. They are also, by the way, the group that the State has decided to leave on its own, considering its lack of capacity to cover the whole field. Nevertheless, they now cover only a very small group of workers, thus leaving most of the labor force at the mercy of completely profit-oriented companies who are not touched by the movement for corporate social responsibility these ARMs represent.

The absence of the State from the regulation of these global supply chains has opened the door for civil society to come in. Armed with internationally accepted standards, it has devised schemes to make global corporations to conform to them, loudly

criticizing their violations, forming alliances to monitor and discipline them, arming workers, communities and other stakeholders with means by which to assert their rights, providing a model of an alternative economic system to compete with them. They have provided a counterpoint to the multi-nationality of business and world trade by linking civil society in the North and South in parallel organizations of monitoring and verification. In the ETI, SAI and GCI, they have even found corporations uncomfortable with the current exploitation of workers in the South to be equal partners in this endeavor. And in FT, civil society and business have melded so that it is almost impossible to separate them as they pioneer in a brave new way of trading.

These are commendable initiatives, but we have found in this study that global civil society, like their counterparts in the individual countries, face problems of scaling up. ETI has been effective in arousing certain companies to draw up a CCC, and in making another to get into a full-blown ethical trading scheme. Its work has been done in depth, but has affected an infinitesimal group of firms. GCI even with the United Nations behind it has mostly attracted those who would have been socially responsible anyway. SA8000 and FTOs, each in their own way, have a strong following, but also a small one. To reach more they need more resources and greater capacity to involve more corporations. As in national civil societies, it would appear that global civil society organizations also need the State to make their advocacies reach more and be sustainable to the few they have already in their fold. And so we go back to the State.

What we are talking about after all is not provision of a service, but the wielding of the power of the State to make corporations obey the law. This little study has provided lessons in regulatory governance for the State.

First is that the State does not have to go it alone. It can find willing partners in civil society, some associated with business firms (like ECOP, like AlterTrade Foundation) and others more aligned with the causes of workers and the poor (like ITGFWF, like WWW).

Second, it can learn from the verification and monitoring methods they have devised and effectively used, like social auditing, the ETI worker's education package, SAI's self-assessment tools (but dramatically scaled down in price).

Third, it can partner with organizations interested in regulation, as it has done with SAI, or as the European Union and the British government have provided though funding to ETI. Although a silent partner there, the fact of its presence gives the organization clout that a mere civil society group cannot have.

Fourth, given its scarce resources, the State can put its support behind CCC. The weakness of a company code is that it is by itself, and can disappear when the strong wind of competition blows it over. If the State gives incentives to corporations that embrace CCC, it can strengthen a company's solitary stand. But such support must have the power of the State behind it, which means it must establish effective monitoring and

verification procedures also. In this it can then partner with willing NGOs which must be trained for this social auditing task.

Fifth and finally, effectiveness increases with depth of regulation. ETI has influenced the reform of one MNC because it researched on its performance for three years running. SA8000 covers a corporation's activities from head to toe. With the poor labor inspector ratio, to ask for in-depth regulation for all firms is like crying for the moon. One possibility is for the central government to make local governments its partner in this regard. The locals can act like ETI for every company it monitors. Since that government is closer to the people, it may also not find difficulty harnessing people's organizations to carry out the task. The Commission on Audit found many civil society groups willing to undergo training and undertake its participatory audits. These organizations were not located in Manila, but in rural areas far from the capital. Enterprising local governments can find such resources in their own localities. Regulatory governance can be an effective partnership of central and local governments, as well as of State, business and civil society.

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