

Fair Trade, Corporate Accountability and Beyond: Experiments in 'Globalising Justice'

CRITICAL REFLECTION ON CSR: A LABOUR'S PERSPECTIVE

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1 Introduction

On 13-14 January 2006, at the 'International Seminar on Corporate Social Responsibility' organized by the Institute of Labour Law and Social Security Law of Peking University, we articulated a paradox: why have multinational corporations suddenly become 'the promoter and defender of labour rights' when they are frequently identified as the perpetrators of labour exploitation? Accusations of their exploitativeness are especially true given the globalization of the world economy, whereby national and local governments are pushed to weaken labour standards to avoid capital outflow and to attract foreign direct investment, resulting in a squeeze on wages and welfare. Yet on the contrary, in the recent movement of 'Corporate Social Responsibility' ('CSR'), the multinational corporations (MNCs) now serve as 'role models of good conduct' and have become prestigious 'corporate citizens' and 'caring corporations'. Nearly every week, there are numerous forums, talks and seminars presenting different viewpoints and case studies on this issue. In China, CSR is a booming industry.

Are the MNCs really shooting themselves in the feet? During that seminar in Beijing, one labour researcher rightly pointed out: 'Corporate Social Responsibility allows corporations to make others shoot themselves in the feet.' Let's take a closer look at the nature and impact of this movement, especially its influence on the labour movement.

CSR has become such a hot topic in business that many universities have opened specific courses, departments or even institutes on the subject. When *Fortune* selects the 'Most Admired Companies', CSR is one of the major evaluating standards; and when *Financial Times* chooses the 'Company of the Year', one of the criteria is the company's contribution to the economy and to society. Meanwhile there are some other indexes on CSR, such as the Dow Jones Sustainability Index called the 'Domini 400 Social Index'. Governments everywhere are keen to promote it. For example, Bill Clinton, the former president of the US, introduced the White House Apparel Industry Partnership (now known as the Fair Labour Association) and in Britain, there is the Ethical Trading Initiative (ETI). With the government's encouragement, business, labour unions and NGOs thus join together to explore how to further promote CSR. The United Nations has also introduced Global Compact, focusing on corporate responsibility towards the environment and society. Tools include the Global Reporting Initiative (GRI) have been set up. The International Standards Organization (ISO) is also planning to come out with a CSR standard. There are bookstores with CSR sections as many more books and journals on this subject are meeting the market demand. Recently in China, courses on 'anti-CSR' (getting around, or cheating CSR) have been offered, and taught by ex-auditors and company consultants which have been well attended.

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2. CSR and Economic Benefits

We may conclude that in light of the dubious benefits of CSR, in recent years, a disproportionate number of conferences are being held in relation to CSR. One of the problems with the proliferation of instruments and conferences is that there is no commonly agreed definition of CSR, and different types of corporations may get involved in different aspects of it. Approaches to CSR may include: to comply with the law and local moral codes; to observe the code of Business Ethics; to be accountable to shareholders and to the public; to support philanthropic work and make donations to the charities; to promote the social participation of corporations; and also to protect the environment, promote occupational safety, safeguard the lawful rights of labour, show respect to the community and protect the disadvantaged. Further difficulties in defining a CSR approach arise from the fact that the corporation faces different groups in different areas: in relation to the environment, the corporation has to deal with organizations for environmental protection and local communities; with regard to labour issues, they must work with labour organizations, workers and labour unions.

The differences in the definition of CSR also reflect the diversity of people's views of it. Some researchers try to distinguish the social responsibility of the corporation from its economic responsibility, believing that their economic responsibility is to pursue the greatest interests of the shareholders, while their social responsibility is to satisfy the generally acceptable demand of the public in social sustainability and social justice. Yet this kind of demarcation ignores reality. The dominant view amongst those business consultants and researchers who actively 'sell' the idea of CSR now appears to be that the promotion of CSR can bring huge profits to the corporation. Indeed, a great deal of evidence shows that the implementation of CSR can: 1) boost the sales of their products, and increase their market share; 2) help the brand attain a good reputation; 3) improve the image of the corporation; 4) attract and retain talent, and promote employee productivity; 5) reduce production costs; and 6) attract more investment and achieve more positive credit ratings. In short, CSR is a way to increase profits, and of great significance in terms of economics. From this perspective it might be argued that the corporation does not see CSR as its obligation, but as a business strategy to achieve greater profits by fulfilling its social responsibility.

Business for Social Responsibility, an American pro-business organization, has expressed the view that CSR means to attain business achievements by respecting ethical values and protecting the communities and the environment. CSR is thus transformed into a new way of reaching the corporation's final goal of profit-making. This profit-oriented approach CSR is subjected to much criticism from many NGOs and trade unions. Contrary to the 'social' approach to CSR, a thorough CSR approach enters into every sector of the corporation in order to achieve greater productivity and profits. CSR is not limited to the corporation's participation in the society and social life, but has the potential to bring about changes to the relationships between the corporation and its stakeholders. Furthermore, CSR also alters labour relations in the factories that produce for the corporations. So the economic activities of the corporation can bring positive or negative impacts to society. To separate the corporation's economic responsibility from its social one is to neglect the fact that these two responsibilities have been intermingled in the operation of the corporation.

Another way to define CSR is to analyze the nature of CSR itself. Kotler and Lee (2005, pp.4-10) point out that CSR is a voluntary self-commitment made by the corporation itself to improve community well-being through 'discretionary' business practices and 'discretionary' contributions of corporate resources to society. The well-being of the community includes the happiness of the human being and the protection of the environment. Kotler and Lee (2005 p.3) emphasize the discretionary nature of the commitment made by many companies which adopt CSR approaches. CSR is not stipulated by the law; it is not even necessarily a response to the public demand. The corporation's 'discretionary' business activities go beyond ethics, law, normal business operation or even the expectations of the public. Nevertheless, this 'discretionary' nature of CSR gives rise to a good deal of criticism from many NGOs and trade unions. Many corporations have their own 'codes of conduct', which state that they and their partners in production must follow the local labour laws; yet most of these local labour laws are far below international labour standards, especially in

the area of collective labour rights such as Cambodia and Bangladesh.. Even in some regions where there is comprehensive labour legislation, if the local government is powerless or is unwilling to enforce the legislation, the regulations originally stipulated in the law then become merely the 'discretionary' proper behaviour of the corporation, the notable examples are China and the Philippines. In other words, the corporation can decide 'at its discretion' how to follow the codes of conduct, which articles they should follow, and which they can temporarily suspend. The labour law itself has thus been privatized.

Being 'discretionary' is a fundamental feature of CSR. From the corporation's point of view, it contributes 'of its own will'; CSR is not its obligation. Thus, it is the corporation's extra contribution to the society. Yet from the point of view of many NGOs and trade unions, this 'discretionary' nature of CSR is not subject to the law. The self-monitoring of corporations cannot guarantee anything. It amounts to just a publicity strategy.

There are conflicting views between the business sector and NGOs and trade unions on CSR. In this article, we would like to examine some underlying problems of CSR from a labour's perspective such as AMRC. As we are more focused on the labour situation in China, in this article we pay more attention to CSR in relation to labour conditions, and use the actual situation of workers in Southern China as an example. Whilst labour relations are only one area of CSR amongst many, insufficient adherence to decent labour standards in production and procurement are one of the most crucial and difficult problems that CSR seeks to resolve. In fact, whenever CSR is involved, most corporations prefer to deal with the technical aspects of the situation. Similarly, where environmental protection is concerned, corporations will tend to seek technical measures to reduce pollution. Because of this preference for 'technical approaches', occupational safety is a relatively easy matter for the corporation to deal with, because many problems can be solved technically, i.e., by implementing measures to protect workers' health and to reduce industrial accidents. Yet labour issues cannot be wholly dealt with in a technical way; some issues involve changing the nature of the management of the corporation in order to alter the power relations between the workers and the management and the solidarity among the workers between the North and South, and amongst factories producing for the same brands. These kinds of issues cannot be resolved through improvement in technical areas alone. They are related not only to reform in corporate management, but to the most sensitive relational issues including the right of workers to speak up on factory affairs where their interests are involved.

3. CSR and Globalization

In labour issues, the Code of Conduct is the primary embodiment of CSR. Its emergence can be attributed to the strong consumer campaigns and labour movement in the West. As globalization and free trade accelerate the flow of capital, the capital flow becomes boundless. Many corporations have closed their factories in their own countries, instead procuring goods from producers in 'low labour cost' regions. Many commentators have observed that although international subcontracting, precludes corporations taking part in production directly, they can still keep production under their control and influence by many means. In international subcontracting, buyers and manufacturers are in an unequal relationship. It has been well established that, as buyers, multinational corporations can control working conditions and prices through their merchandising policies. S. Prakash Sethi calls this a new kind of 'neo-mercantilism': it results in a more or less monopolistic position, which allows the multinational corporations to get a disproportionate amount of the benefits. Wal-mart's procurement practice is a good illustration.

Led by NGOs, western consumers have reacted strongly against labour exploitation in sweatshops and such indignation sparked off the consumer campaigns in the late eighties. The voice of the NGOs is very clear: multinational corporations should be held responsible for the labour conditions of their supplying companies. The strength of the consumer campaign casts pressure on the profits of the corporation: the greater the pressure from the consumers, the more serious corporations will take their social responsibilities. In order to 'please or pacify' the consumers and NGOs, and at the same time to protect their interest in international subcontracting, multinational corporations then introduced code of conduct. The codes of conduct have two features: on the one hand, they are part of business public relations in response to

accusations made by the activists; while on the other hand, they formally acknowledge that the corporation should be primarily responsible for the manufacturing workers that they do not directly employ, and that the labour rights of these workers should be protected. Codes of conduct also serve as the basis for the NGOs to supervise the manufacturing processes of the multinational corporations. At the end, many NGOs join the band wagon of monitoring, stakeholders' roundtables.

There are two conditions underlying the adoption of a code of conduct. First, that in the production area there are grave defects in laws, or the government enforces the laws poorly. The truth here is: if there were well-written legislation, a good legal system, proper enforcement of laws and trade unions truly represents workers, there would be no need for codes of conduct at all. The former can be illustrated by wage legislation in Indonesia. According to the minimum salary, workers can hardly feed themselves or their families. The best example of the latter is in China. The labour law in China is quite comprehensive and advanced, but it has nothing good to say about the enforcement of the law by the local governments is very poor. The ratio of labour inspectors to the number of factories is disproportionately balanced in China. In fact all codes of conduct state clearly that the manufacturers should strictly observe the local labour law. Yet here is the fundamental contradiction: the effectiveness of codes of conduct is limited because they appeal to supplying companies to adhere to defective laws or laws that are not enforced. They do not address the root issues behind the existence of labour and environmental problems in the supply chain.

The second condition is that there is no labour organization that can truly represent workers, or the operation of labour organizations is very poor. If there was a powerful labour union in the production area, workers could reach a collective contract with the manufacturers or even with the multinational corporations, through the help of a labour union to safeguard their rights. Under such circumstances, a code of conduct would be virtually meaningless. Yet in many developing countries the labour unions are too feeble; or their labour unions do not have the real strength; or in the cases of China and Burma, the independent labour organizations are being totally suppressed. But corporate codes of conduct say that the corporation will respect labour unions organized by the workers and the rights of collective negotiation. In reality, these two things never exist, and the codes of conduct are just empty talk.

4. The Road Ahead

Upon analysis as above, we believe there are three ways ahead which labour organizations can take:

1. Demystifying CSR

Nowadays CSR has become a panacea: it can solve pollution and settle labour disputes, and MNCs even boast about the participation of NGOs and labour unions. But as for the participation of workers, when it does occur, it does so merely for publicity purposes which it serves as a decoration.

The so-called 'auditing systems' of CSR are not totally independent and are significantly flawed. In 2005, AMRC started a project called 'Monitoring the Monitors' in which, many problems were identified through interviews with corporations, auditors and people from various circles. Suppliers are now adept at cheating audits. Or auditors take bribes. Workers are not given a chance to communicate confidently with auditors' questions, and if they are, they have often been 'coached' by management on how to give model answers. Often audits are so superficial to detect problems. Even when they do detect problems, little time is put into resolving them.

We need to take further action to disclose the facts and undertake an in-depth critique on the theory and practice of CSR. To take one example, a group of nine labour organizations and trade unions in Hong Kong had started to work with ETI of Britain since 2003, trying to promote projects on occupational safety in mainland China. Yet after four years of entanglement, with the supplier companies' refusal to cooperate, those Hong Kong labour organizations have decided to withdraw from the programme. They have written an open letter explaining the reasons for their withdrawal and summarizing the lessons they have learnt. ETI is not the only dubious CSR program by any means. For example, in many follow-up visits to plants

such as accredited with SA8000, we found that things had more or less returned to 'business as usual' as soon as the factory was out of the auditors' and activists' spotlight.

Many cases demonstrate that, not only does CSR fail to create concrete improvement in working conditions, but it actually diverts attention away from real issues. For example, this year the Chinese Government planned to introduce the draft of a new Labour Contract Law. The government immediately came under siege from many chambers of commerce from the European Union, US and Hong Kong. These business associations and corporate members try to defend CSR; but when facing the amendment of labour laws, they show their true colours at once and strive to oppose or defer legislation by making different excuses. NGOs need to translate and widely circulate reports by Oxfam, other NGOs and unions on labour rights and benefits in different industries and areas, including sportswear, shoes, electronics and toys. These reports can reflect the true situation inside factories and workers' communities.

Workers and activists in producer companies are marginalized in CSR debate. For example, in Hong Kong, many companies just do not bother to translate their CSR reports in Chinese. In a predominantly Chinese-speaking community, the reports serve only English readers. In the same way, workers are kept in dark of about what is written by in CSR reports about them. Workers are 'objects' and rather than agents in debates their own rights and interests. We must turn the table around.

Even companies themselves are admitting the ineffectiveness of their CSR programmes to date. Actors from many diverse organizations are beginning to talk about CSR 'beyond monitoring' or 'empowerment' programmes. Activists should actively formulate alternatives.

2. Keeping a united front

Internally NGOs and trade unions need to communicate with one another and exchange our experiences and insights when dealing with CSR. There is no need to urge all groups to take collective action either through participation or boycott. For example, it is rather difficult to call upon Chinese NGOs to launch direct action publicly. Rather, they may be willing to take up training program or fact finding work. More importantly, labour organizations should build up some mutually acceptable standards of their own as a base for bargaining with corporations. We once mentioned that labour education should be included in all projects; now we should go further.

Moreover, activists should keep in mind that it is only under pressure that a corporation is willing to converse with and invite the participation of NGOs. It is not out of benevolence, but rather only to win the support of NGOs. Thus, our struggles will be more effective if we exert external pressure through the direct action of the workers and consumers, and activists should be given up action that challenge corporations just for the chance to engage with them in dialogue.

3. Establishing triangular solidarity

Three years ago a group of activists proposed a concept of 'triangular solidarity' around the world so as to defy CSR. The triangle means: worker organizations in the South, consumers in the North and the trade union movement. Yet this kind of triangular relationship is far from consolidated. We point out in the past campaigns, the most important problems are: 1) the under-emphasis on workers' participation, 2) lack of long-term strategy and 3) lack of serious attempt to improve the way in which labour groups from different backgrounds and regions can develop and cooperate solidarity. To remedy this, we need to ensure workers that they can change the situation by organizing themselves and they are able to control their own conditions of work.

Sometimes these actors find themselves in conflict as each fight as each fight for their own interests. For example, workers in the West and Global North sometimes accuse those in the Global South of taking their jobs, while the South denounces the protectionism of the West/North. In other examples, some campaigns of Western activists have resulted in the closure of the plants. When problems are exposed, sometimes buyers will cut contracts, or factory managers will shut down shops or relocate. In this case, workers may

blame NGOs for working against their own interests. Therefore, activists in different geographic locations must strengthen communication among one another, especially the direct contacts between workers and the public, so as to avoid misunderstanding about what issues are really important on the ground.

Only through real cooperation can workers and their advocates stand against the corporations and their supplier companies, and find the way forward to advance labour rights.

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