Debate

Transnational Labour Campaigns: Can the Logic of the Market Be Turned Against Itself?

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ABSTRACT

Many discussions of how to improve working conditions around the world — especially in poor and developing regions — suggest that transnational activists could 'name and shame' employers, using independent monitors and the threat of consumer boycotts to push international brands to monitor conditions in their suppliers around the world. Drawing on a comparative study of independent monitoring in South Africa, India and Guatemala, this article suggests that 'voluntary' monitoring systems may have limited impact, as non-governmental groups involved in monitoring discover they are dependent on employers for access to worksites and for funding. Further, in focusing on issues that will attract international consumer attention, independent monitoring schemes may weaken local workers' ability to bargain on their own behalf.

INTRODUCTION

In October 2007, one more exposé revealed abysmal working conditions on the global assembly line: one of the Gap's Indian suppliers had employed, or perhaps enslaved, ten-year-olds, producing clothing for sale during the Christmas season in Europe and North America. Afraid that the scandal might tarnish its image, the Gap responded quickly: the retailing giant would support an independent certification scheme in India, paying monitors to check on sub-contractors, so that global consumers might be reassured that their clothing was made only in factories that complied with its corporate code of conduct (McDougall, 2007).

The Gap was treading a well-worn path. Since the mid-1990s, global brands have learned that, when activists reveal child labour, worker abuse or unsafe conditions in their supplier plants, they can ward off threats of global embarrassment and transnational consumer boycotts by adopting codes of conduct and promising to monitor compliance, saving their image by showing they are policing the behaviour of sub-contractors down the global supply

chain. To optimistic observers, this approach offers new hope: if developing countries find it difficult to enforce labour laws (either because they lack the will, or because they need to attract investors), perhaps ethical consumers can serve as a new source of regulatory pressure, forcing corporations to hold suppliers to global standards. Indeed, in both North America and Europe, consumers say they are willing to pay more for goods made under decent conditions, and several recent experiments suggest that many consumers will pay more for goods bearing a 'fair labour' label (Kimeldorf et al., 2004). Can global activists mobilize this pressure to raise working standards in a competitive world?

Over the past decade, transnational activists, policy makers and academics have suggested that consumers might form the basis of a new type of global regulation: transnational networks, attentive to ethical violations and insistent on global equity, could threaten to 'name and shame' companies who fail to meet global standards, and independent monitors could provide the information and transparency needed to make these threats credible. To avoid scandal, multinational companies would insist that their sub-contractors improve working conditions; gradually, working conditions will be improved rather than eroded, down the global supply chain (Fung et al., 2001; Klein, 2002; Ruggie, 2003; Williams, 2000b).

External monitoring is the key to this vision. Most analysts recognize that companies can adopt codes of conduct, but without external monitoring, those promises may have little impact. Jill Esbenshade (2003: 9) writes: 'Codes of conduct created . . . by companies are a public statement of intent. Workers and their advocates can use these as a tool to hold companies accountable. What is needed is a more credible form of certification . . . Independent monitoring . . . offers a necessary check on a system that is otherwise controlled by the companies themselves'. As the Gap's quick action demonstrated, independent monitoring has emerged as the gold standard for corporate accountability: by supporting outside monitors, by insisting that suppliers open their doors to those monitors, and by making monitors' reports public through some system of certification, companies can earn consumers' trust.

But how well do independent monitoring schemes protect workers' rights? Oddly, most discussions remain abstract: neither activists nor academics have looked closely at actually existing transnational campaigns (Williams, 2003). Drawing on a recent study of independent monitoring schemes (Seidman, 2007), this contribution describes common patterns among widely-cited monitoring schemes. It focuses especially on the issues that mobilize global consumer pressure; the circumstances under which companies accede to outside monitoring; and the characteristics of 'independent monitoring' schemes. Based on these common patterns, I ask how well these stateless regulatory schemes work in practice, and how transnational labour campaigns might intervene to protect workers in a competitive, integrated global economy.

'MODEL' MONITORING SCHEMES

Part of what complicates discussions of 'multi-stakeholder initiatives' or independent monitoring is that each example is very different: existing programmes are constructed in response to different issues, and monitor working conditions in very different contexts. Following a common logic in comparative studies (Dion, 1998), I started by selecting cases which are widely considered to have been successful, hoping to understand more about the conditions in which monitoring works, and to identify conditions and characteristics that seem to be necessary conditions for reliable monitoring.

This led me to begin with the Sullivan Principles in South Africa. In the 1970s, under pressure from anti-apartheid activists inside the country and internationally, American companies operating in South Africa under apartheid signed onto a set of principles designed to promote 'good corporate citizenship', and independent monitors graded their compliance. Although anti-apartheid activists roundly criticized the principles as inadequate, Sullivan's system is now cited as the first successfully monitored voluntary code of conduct, marking a shift in corporate culture worldwide (Williams, 2000a). My second case was a widely-cited effort to reduce child labour in India's handwoven carpet industry through monitoring and social labelling: Rugmark has been heralded for its contribution to changing attitudes toward child labour in an industry that had become an international symbol of child exploitation. Rugmark's monitors attach a smiley-face label to carpets, certifying that no children worked on that specific loom. Although Rugmark (like the Sullivan system) is widely criticized at home, it is often held up as a model by outsiders ranging from the International Labour Organization (ILO, 2004) to the Gap, which said in 2007 that it would model its new proposal on Rugmark's success. Thirdly, I looked at a programme in Guatemala, where monitoring has been a key component of the past decade's efforts to construct democratic institutions as the country emerged from a long civil war. COVERCO, an independent NGO, monitors apparel factories for American multinationals in Guatemala; it has worked closely with transnational campaigns to bring outside pressure to bear on employers, just as advocates of 'soft regulation' advocate.

Although I started out looking for successful examples, it is worth underscoring the dilemma I faced in my study: while I chose these schemes because they are frequently cited as exemplary, each faces harsh criticism at home. As I examined these cases in more detail, I came to believe that the fact that each scheme faces strong criticisms from local activists stems from the very design of voluntary, stateless regulatory schemes. So, instead of abandoning these cases because of the criticism, I persisted, hoping to gain a better understanding of the possibilities and limitations inherent in the approach.

THE ISSUES THAT MOBILIZE EXTERNAL PRESSURE ON COMPANIES

In each of the three cases, global pressure to raise working conditions was something of a by-product of a bigger campaign, which focused less on the workplace than on larger human rights concerns — apartheid in South Africa, child labour in India, civil war and a long history of human rights violations in Guatemala. None of these cases revolved around the ordinary grievances that plague workers around the world: they were not initially prompted by low wages, inadequate health protection, or forced overtime. Indeed, global consumer pressure was not initially related to labour grievances at all but by broad human rights violations, with labour grievances comprising only a small part of the activists' agenda.

This demands greater attention: what kind of issues galvanize global attention, to the point that a consumer boycott becomes a real threat? Following a broad pattern in transnational activism identified by Keck and Sikkink (1998), each of the examples I looked at revolved around egregious human rights violations, often involving physical harm to vulnerable victims. In South Africa, workplace reform was only a very small part of the anti-apartheid agenda, and indeed, when companies embarked on workplace reforms, their efforts failed to satisfy protestors either in South Africa or abroad: activists continued to demand divestment even from companies that complied with Sullivan's standards for de-segregated facilities and hiring and training programmes for black workers. In 1987, Reverend Sullivan himself concluded that the workplace approach was inadequate, and he, too, concluded that excellent workplace records in South Africa did not justify companies' continued presence.

Indian carpet manufacturers also faced global pressures motivated by human rights concerns, and a campaign that was only partially linked to workplace grievances. In the 1980s, global institutions embarked on a worldwide campaign to protect childhood, and to increase access to schools, education and healthcare for children. In India, this campaign meshed easily with labour activists' efforts to push the Indian government to enforce its own laws: child labour is ubiquitous in India, from rural fields to firework factories. Local activists singled out the carpet industry as a particularly egregious example of government connivance: the industry had been declared 'hazardous' for children since 1948, but when the Indian government sought to expand carpet exports in the late 1970s, children as young as six were taught to weave in government-run training centres. Examples of kidnapped children scarred by brutal weaving masters shocked the world, and the industry became a global symbol for a much larger campaign.

In 1992, Indian carpet exporters faced direct pressure to remove child workers from their looms. German church groups and unionists had begun to call for a ban on Indian carpets that might have been made with child labour, while the American Congress was discussing a bill that would have banned goods made by child workers. In New Delhi, the NGO Rugmark

was formed to monitor carpet production, using the widely recognized label of a smiley face tag on each carpet to indicate that no children had worked on a particular loom. Participating exporters paid a small percentage of their export earnings to support the monitoring teams; individual weavers, whose sheds are scattered through rural villages across northern India, would register their looms for monitoring, and any children found working at those looms would be taken to a Rugmark-run school for rehabilitation or returned to their families.

The system relied on global consumer preferences; as the Rugmark founding director wrote:

> All parties agreed on the basic market orientation of the whole concept. Instead of pleading for bans or boycotts, it would be better to give carpet manufacturing a new promising perspective. The creation of something like a brand name would help increase confidence and the name Rugmark was chosen after long consideration. It was intended to create something new, signifying social quality for the market, without accusing others. (Kebschull, 1999: 193)

In India, as in South Africa, this workplace monitoring scheme came about as a by-product of a larger human-rights campaign: the monitoring programme in India's carpet sheds was developed in response to a broad transnational campaign around children's rights, rather than in response to workers' voices. Explicitly designed to follow the logic of the market, Rugmark's monitoring scheme was built around efforts to sustain overseas markets, not to empower Indian workers.

In Guatemala, monitoring by non-governmental activists has a somewhat different history. Through the 1990s, Guatemalan human rights activists viewed monitoring — of government armies, of guerrillas, of employers — as a way to help construct democracy during the protracted peace process. In the aftermath of a long civil war, civil society groups hoped that monitoring would force all sides to comply with the peace accords, help strengthen an emergent 'culture of compliance' and promote a democratic state. Workplace improvements would represent one part of that process, but the staff of the NGO COVERCO clearly view non-governmental monitoring as a necessary stopgap measure, not a replacement for the enforcement of national labour law.

At first glance, Guatemala's experiences with independent monitoring offer a contrast to other examples of global consumer campaigns: transnational pressures were more directly focused on the workplace, especially on the expanding apparel industry in the mid-1990s. But in Guatemala, too, workplace monitoring emerged in the context of much broader transnational campaigns to protect human rights, in which activists were already linked across borders, and the lines between labour rights and human rights were already blurred. Initially responding to American involvement in the region's civil wars, by the early 1990s American activists began to look harder at workplace violations, as another site in which the Guatemalan government

was failing to protect its citizens from abuse and exploitation (Battista, 2002; Ross, 1997).

Like the other two examples described here, COVERCO's monitoring activities emerged in a context of widely-recognized state failure, in which local activists appealed for international pressure, hoping to prompt the local state to protect citizens at work. Ten years after the peace process began, even Guatemalan labour department officials or leading members of Congress often acknowledged that the Guatemalan state showed little inclination, on its own, to develop a culture of compliance or enforcement. Building on transnational networks built up during the civil war, human rights activists began to look at workplace abuses as yet another site where international pressure might be brought to bear on the state.

This common pattern raises other questions. Will international audiences really respond to ordinary labour grievances? Labour struggles have histori-cally been local affairs, as workers demand a voice, calling on governments to protect citizens' rights at work. Transnational campaigns, by contrast, must appeal to outside audiences, and they tend to revolve around issues likely to attract international attention — physical attacks on vulnerable workers, child labour, and other visible examples of a serious failure to live up to some broad universal standard of humane treatment. And how far do labour rights translate into human rights? Citizenship claims tend to re-flect participation in bounded communities, and labour rights have generally been defined when citizens call on states for protection. By contrast, human rights claims invoke universal human experiences, reflecting transcultural commonalities; appeals are framed in terms of universal standards, based on common human needs that transcend national borders (Shafir, 2004).

Citizenship demands around labour rights emerge in a specific context, and they have historically emphasized demands that would give workers greater voice and bargaining power. Transnational labour campaigns, by contrast, tend to revolve around universal standards, emphasizing the protection of vulnerable victims — painting rights in very broad strokes, and eliding the details of more ordinary grievances (Brooks, 2007). This tendency raises a difficult question: while consumers around the world may pay attention when violations are egregious and visible, will they turn away once the monitoring scheme is in place? Even with global information channels, will most consumers know whether working conditions actually improve, once the monitoring system is in place and they have been adequately reassured?

DO COMPANIES ACCEDE TO OUTSIDE MONITORING?

Proponents of independent monitoring might well argue that the type of issues used to attract global attention is irrelevant to the outcome: the impor-tant thing is whether that pressure, once mobilized, can be used to improve working conditions. From this perspective, what matters is not which issues

motivate global consumers, but which circumstances will lead multinational companies to insist that their suppliers open their doors to external inspectors, and whether independent monitoring offers transparent access to information about working conditions.

It is worth noting, first, that a company's decision to support independent monitoring rarely comes in response to individual consumer pressure: rather, it is the idea that state action would block access to lucrative markets which seems to prompt the necessary action. In each of the cases described here, the turn to independent monitoring came in response to a credible threat that importing countries might block imports. In the early 1980s, during the period when most companies signed on to Sullivan's code, a broad array of institutional stockholders, including universities, pension funds, unions and municipalities, had either sold shares in companies considered to be supporting apartheid, or were talking about doing so, while politicians were proposing to tighten sanctions against apartheid. Similarly, in India, initial proposals to monitor looms for child workers met stiff resistance from carpet exporters and weavers, who warned that a ban on children in the thousands of weaving sheds meant 'suicide' for the industry — not only because it would raise costs, but also because it would remove the nimble-fingered youths who tied the thousands of tight knots needed for each carpet (Juyal, 1987). By the early 1990s, facing bans on goods made by children in both the United States and Germany — the two largest overseas markets for India's carpets — Indian carpet exporters began to agree that their industry needed to change. Perhaps older workers might be more productive than children, after all, since they have more stamina and can tie tighter knots (Bhattacharyya and Sahoo, 1996a, 1996b). With assistance from the German embassy's export-promotion programme, the carpet industry began to create a social labelling scheme; neither the German nor the American legislative proposals were put into effect.

The role of the American state was, if anything, even more explicit in Central America. Guatemala's apparel industry had expanded during the 1980s, as American trade policy created new incentives to promote foreign investment in the region: the American clothing industry had restructured to take advantage of looser import restrictions and low-wage sites, and apparel sweatshops had emerged as the site where poor working conditions, corporate image and independent monitoring schemes came together in Americans' imagination as the archetypical example of the 'race to the bottom' (Rosen, 2002).

Again, pressures from importing states played a key role: in the early 1990s, then-Secretary of Labour Robert Reich launched an industry-wide effort to respond to the apparel industry's global spread, recognizing that globalization had placed most factories beyond the reach of American labour law. Reich urged companies to take greater responsibility for their sub-contracted factories, and brought multinational employers and American unionists together to discuss the issue. Students on campuses across the US

began to focus on the conditions in which clothing with collegiate logos was produced. As multinational companies began to look for ways to assure global audiences that they were paying attention to their subcontractors' working conditions, codes of conduct and independent monitoring became the standard response (Featherstone and USAS, 2002).

Transnational campaigns generally follow the example of the international human rights movement, which generally created a transnational boomerang, with local groups providing information — or 'bearing witness' — to transnational networks, who then put pressure on repressive states (Keck and Sikkink, 1998). Consumer-based campaigns follow a similar strategy, albeit with some key differences: transnational labour activists seek to protect workers, not victims; they 'bear witness' to consumers, not international institutions; and they seek to change the behaviour of corporations and sub-contractors, not states.

However, that does not mean states are absent from the picture. As these examples show, corporations clearly respond quickly to threats of state action, especially when wealthy states threaten to block imports from the developing world. In an increasingly integrated world, where neither global institutions nor states seem committed to protecting workers from abusive employers, activists, policy makers and scholars often imagine that any regulation of global corporations will remain essentially stateless, involving non-governmental organizations, consumers and corporations, rather than legal or political institutions; but as each of these examples suggests, states remain central figures in shaping the environment in which corporations compete.

HOW WELL DOES MONITORING WORK IN PRACTICE?

One of the basic assumptions behind the 'naming and shaming' strategy is that rapid flows of information make long-distance altruism easier: we can use access to global reporting, through the internet and other new media, to raise consumer awareness; proponents of voluntary regulatory schemes suggest that outside monitoring strengthens that likelihood, by giving consumers access to reliable information about what happens inside the factory walls. Faced with the threat of exposure, it is argued, companies will work actively to comply with outside codes, to appease ethical consumers and stave off boycotts.

In practice, do companies really fear exposure through monitoring? Criticisms of the monitoring within Sullivan's system were widespread, even among policy makers who supported the approach: compliance was monitored by a team created by a Boston-based accounting firm, with little background in workplace monitoring (Sethi and Williams, 2000). Not only did the monitors rely heavily on data provided directly by employers, with little effort at outside validation, but the monitors had little direct knowledge of

South African circumstance — to the extent that the programme apparently confused South African racial terminology, conflating the terms 'black', 'African', 'Indian' and 'Coloured' in a way that confused any attempt to measure affirmative action at work. By the time most American companies began to sign onto the Sullivan programme, national politicians were increasingly considering imposing economic sanctions on South Africa, and in the end, even signatories who had long claimed strong allegiance to Sullivan's approach chose to divest their holdings rather than face continued political pressure abroad.

In contrast to the Sullivan team, Rugmark's monitors are themselves Indian, and they rely on evidence they collect themselves rather than reviewing evidence provided by the employer. Nevertheless, through the first fourteen years of the programme's existence, Rugmark's monitoring fell far short of the programme's goals and, in India, activists insist that Rugmark has merely offered exporters cover. To some extent, Rugmark's problems reflect the nature of production in the industry: made largely in small home-based workshops, the Indian carpet industry is spread through hundreds of villages, with a complex web of sub-contracting and cottage production, a situation in which unionists and child labour activists have long argued it is virtually impossible to regulate child labour.

These difficulties are perhaps especially glaring in India's carpet belt: by the time Rugmark's monitors have travelled 30 km to the next village, parked their jeep, and walked over to the weaving shed, any non-family child working on the loom is long gone. A single visit during the three- to six months it takes to produce a single carpet is hardly likely to guarantee that no child has worked on that carpet — and despite the claims of Rugmark's directors, the programme's own figures indicate that Rugmark's monitors see each registered loom only once every three years, on average. Even after a decade, it is not clear what sanctions are imposed: although Rugmark's directors are somewhat hazy on the figures, very few, if any, carpet weavers appear to have actually been sanctioned for employing children on their looms. Recent academic surveys suggest that Rugmark carpets probably involve no less child labour than carpets produced outside the programme — generally, between 8 and 15 per cent per carpet (Sharma, 2002).

Many Indian labour activists now consider Rugmark's focus on exported carpets misguided. The underlying problem, they argue, is that India's government fails to provide adequate schools and opportunities for the children of poor and lower-caste families; private voluntary programmes focusing solely on export products target only a tiny part of the problem. Much as anti-apartheid activists viewed the Sullivan code as corporate camouflage, prominent Indian activists argue that Rugmark may mislead international consumers to think the larger problem is being addressed, rather than sustaining pressure on the Indian government to take responsibility for the nation's children (Agnivesh, 1999; Beekman, 1999).

The flaws in both the Sullivan and Rugmark monitoring programmes are self-evident: small, relatively underfunded NGOs, which rely heavily on employer co-operation for funding, for access to the workplace, and for data, are hardly in a good position to challenge employers' choices. COVERCO, in Guatemala, has taken a more rigorous approach to monitoring: it only agrees to monitor situations it feels it can cover well, with adequate staffing, with repeated unannounced visits, and involving conversations off-site with workers, to avoid intimidation. Given their care in setting up adequate conditions for monitoring, however, it is striking how willingly COVERCO's staff acknowledge their limitations. Like most small NGOs, they can only cover a handful of factories at a time. If monitors uncover serious problems in a factory, there is nothing the NGO can do to prevent its client — the brandname corporation — from simply ending its contract with the problematic subcontractor, putting workers' jobs at risk. Finally, COVERCO's independence — required to sustain their relationship with clients — can complicate monitors' relationship with workers; by definition, COVERCO is no more accountable to workers than Sullivan's monitoring team was to South African workers, and there is no guarantee that its monitoring will reflect workers' concerns or priorities.

These dilemmas are structural, linked to the very fact that the regulatory system is voluntary and privatized, and that the independent monitors involved depend on corporations for every facet of the process: for funding, for access to factories, and for long-term pressure on sub-contractors. Moreover, in a global, voluntary process, employers know that consumers cannot tell the difference between monitors, and COVERCO's staff recognize that most firms will make a less-demanding choice.

As the labour co-ordinator for Guatemala's business federation said quite explicitly, American corporations have a good sense about whether their customers care about their compliance with labour standards. Companies aimed at students, like the Gap, may feel they need to choose a rigorous monitoring team; but companies that aim at more price-conscious consumers — say, Wal-mart — are less likely to care. From this perspective, a privatized, voluntary system of codes of conduct and monitoring allows companies to choose the level monitoring they need — where the important variable is not workplace conditions or workers' grievance, but the target consumer.

Clearly, apparel manufacturers in Guatemala have not generally turned to COVERCO. Instead, the apparel industry's organizing council, VESTEX, runs its own dispute resolution centre, an alternative to both the traditional labour courts and a new USAID-funded dispute centre. When Guatemala's business associations continue to reject labour law reform, when companies can choose the code of conduct and the kind of monitoring they want, and where workers have little say in the entire process, the pressures on multinational labels to insist on rigorous monitoring seem negligible at best.

Given the reality of proliferating codes, monitors and certification schemes, COVERCO views its role as a temporary expedient, a stopgap

measure to promote better labour conditions in a situation where companies hold the upper hand; COVERCO conceptualizes its role as part of a larger effort to create a more democratic, more effective regulatory system. For COVERCO, voluntary codes of conduct and monitoring constitute only a temporary fix: the real goal is strengthened local capacity to enforce national labour law. Indeed, COVERCO is now beginning to run training sessions for labour department inspectors, seeking to strengthen state institutions rather than replace them.

CONCLUSION

In the face of global competitive pressures, can transnational activists intervene to prevent a 'race to the bottom'? As employers cut costs and national governments fail to enforce labour laws, can transnational consumer-based pressure force companies to regulate themselves? Many discussions of 'stateless regulation' have assumed without question that the 'naming and shaming' strategy that has worked for human rights campaigns can also be deployed to protect labour rights, but as I have argued in this paper, something may be lost in translation. From the issues that mobilize global attention, to the limitations built into privatized systems of monitoring, to the tendency to design codes around issues that matter to wealthy consumers rather than to workers themselves, corporate codes of conduct offer a weak alternative to more traditional protections for labour rights — even when backed by independent monitors, however well-intentioned.

Clearly, the threat of a tarnished image can push corporations to act, but perhaps we should rethink the goals of transnational campaigns. Global 'naming and shaming' efforts can educate consumers about working conditions, confronting them with the human cost of cheap labour; but can they really be viewed as a source of regulatory pressure? Perhaps boycotts should be understood as only a first step in global efforts to protect workers, rather than a goal in themselves. Human rights campaigners increasingly see democratic state institutions as the best protection for citizens' human rights; in the same vein, perhaps labour activists should stop thinking about how to mobilize consumers against corporate brands, and focus instead on how transnational pressures might be deployed in defence of democratic institutions, to make it possible for workers to speak on their own behalf.

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