

No Illusions

Against the Global Cosmetic SA8000

By Labour Rights in China (LARIC)
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Introduction

The 90s have seen the competing spawn of corporate codes of conduct¹ – sets of standards regarding production primarily in the south which transnationals (TNCs) have been forced to take on due to consumer campaigns in the north. The root causes for the emergence of codes of conduct lie in the failure of governments and multilateral agencies to harness excessive and formidable excesses of transnational capitalism.² TNCs have made huge profits by exploiting the cheap labour in the Export Processing Zones (EPZs) in Asia and the free trade zones in Central America, where repressive governments stifle unrest and labour organizing in order to attract foreign investments. The high fluidity of transnational capital, especially in labour intensive, low-tech industries, has resulted in a global “race to the bottom” of plunging wages. In 1991 the mega US jeans maker Levi-Strauss was reported to use young female labour in near-prison working conditions and, in an attempt to salvage its stained public image, it responded by drafting the first corporate code of conduct. Since then, human rights activists, trade unions and other non-governmental organizations in Northern America and Europe have strategically launched many consumer campaigns. Kathy Lee, the Gap, Nike, Reebok, Disney and Wal-Mart, in addition to many other labels, have all been targeted. Many corporate codes are forced into being by scandals exposing TNCs’ labour exploitation in Asia and Central America. However, the effectiveness of such codes has been controversial since investigations continue to unveil the unhindered exploitative practices in the

¹ The codes of conduct discussed in this paper are limited to corporate codes of conduct. However, it is important to note that there are also model codes of conduct or workers’ charters developed by labour groups both in the north and south. For example, the Charter for the Safe Production of Toys put forward by the Hong Kong Coalition for the Charter for the Safe Production of Toys.

² TNCs have long been outsourcing offshore for cheaper costs. With the “Free Trade” orchestration of WB, IMF, GATT/WTO, NAFTA, MAI, OECD and APEC, all states around the world especially in the developing world have been forced into deregulation to allow access to local markets and industries by foreign capital. Many TNCs have moved almost all labour intensive production to the developing regions through flexible specialization and multilayered subcontracting systems. Many, such as the sportshoes giant Nike only retain design, accounting, public relations and retailing in their home base in the developed countries.

production of the companies' products.³ The codes therefore work largely as public relations tools for the TNCs. A heated debate has emerged in the last couple of years about adequate ways to monitor compliance with codes.⁴ Consensus concludes that without adequate monitoring and verification, codes of conduct remain superfluous. Social Accountability 8000 (SA8000) grows out of the attempts by companies to put on glittering façades for consumers regarding labour rights issues.

Like most codes of conduct which promise to safeguard no-sweatshop working conditions for labourers making the companies' products, the capability of SA8000 as machinery to uphold workers' rights is highly questionable. Compared to other corporate codes of conduct, the corporate agenda behind SA8000 and the adverse effects it could bring to labour movements in the long run are much more detrimental. The standard has already begun operation and many businesses, especially auditing firms, have seen lucrative opportunities in it. Before the machinery spins into an influential TNC-camouflage to undermine labour strength, there is urgency for a critical analysis regarding its possible negative impacts on global labour movements.

What is SA8000?

SA8000 is put forth by the Council on Economic Priorities Accreditation Agency (CEPAA)⁵ which was established in 1997. CEPAA has pulled together an advisory board with members from business corporations (e.g. Toys R Us, Reebok, Eileen Fischer, Body Shop, Avon Products, SGS, KPMG etc.), a few unions and human rights groups (e.g. International Textile, Garment and Leather Workers Federation, Amnesty International, National Child Labour Committee), and academia. Based on several conventions of the International Labour Organization, the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child, SA8000 aims high at laying down universal standards for all companies in all industries and all countries. Like most codes of conduct, SA8000 does not cover home-based workers in the informal sector.

The terms of SA8000 are by and large similar to other codes of conduct stipulating requirements on child labour, health and safety, wage, working hours, etc. SA8000 is on paper an advance from most codes because it promises workers the right to a living

³ See for example, Working Conditions in the Sports Shoe Industry in China, Asia Monitor Resource Center and Hong Kong Christian Industrial Committee, October 1997. The report focuses on the labour rights violations of Nike, Reebok and Adidas in South China.

⁴ See for example, Bama Athreya, "Codes of Conduct and Independent Monitoring: Strategies to Improve Labour Rights Enforcement", International Labour Rights Fund, 24 May 1998; Tim Connor, "Independent Monitoring", Campaign for Labour Rights, No.13. April-May 1998; Lynda Yanz and Bob Jeffcott, "EI Salvador Conference Debates Independent Monitoring", *Asian Labour Update*, No.26, January 1997; Medea Benjamin, "A Critique of Fair Labour Association(FLA)", http://www.citinv.it/org/CNMS/archivio/strategie/doc_globalexchange.html

⁵ CEPAA is affiliated to the Council on Economic Priorities (CEP) which was founded in 1969 and specializes in evaluating corporate social performance.

wage (as opposed to a minimum legal wage), collective bargaining and freedom of association, whereas these are usually absent in other codes. However, this does not mean that SA8000 is in any sense progressive. Rather, the promises of collective bargaining and freedom of association could at best be mere rhetoric under repressive regimes like China's government.

The most disputable part by which SA8000 distinguishes itself from other codes of conduct is its use of profit-making auditing firms to monitor and certify corporate compliance with the labour and social standards. The mechanism works like this: CEPAA assesses and accredits certification bodies, which could be accounting or auditing firms like SGS, BVQI, Price Waterhouse, or DNV. Companies that want SA8000 certification pay an accredited professional firm to do the auditing for them. The procedure is similar to those of ISO9000 and ISO14000.⁶

SA8000 – Escape Route for Corporate Accountability

SA8000 looks set to gain prevalence among companies. Given the current confusing requirements of different codes of conducts, and the fact that a company can have subcontracting business relations with different TNCs simultaneously, many subcontracted companies feel disgruntled about the array of confusing monitoring activities requested by different dealers. They complain that the frequent and ill-coordinated monitoring activities hamper efficient production. The Hong Kong Toys Council has also expressed preference for adoption of a universal code of conduct.⁷ The possibility of obtaining a once-and-for-all certification by a contracted auditing firm sounds appealing to many companies. Some companies have already applied for certification and auditing is fervently underway. According to CEPAA, SGS and BVQI, two of the world's biggest auditing companies, have been accredited as certification bodies and DNV, another multinational auditing firm, has also forwarded its application. Toys R Us have promised CEPAA to require its 5,000 suppliers to adopt the standard, Avon Products also pledged to implement the standard in its 19 factories, Otto-Versand, the biggest mail order company in the world, is also said to have implemented SA8000 with its major suppliers.⁸ In Hong Kong, the Hong Kong Productivity Council has approached two NGOs, Asia Monitor Resource Center and Hong Kong Christian Industrial Committee, for cooperation opportunities on SA8000.

⁶ ISO 9000 is primarily concerned with "quality management", examining the management procedures and policies of the companies for provision of good services or productions. ISO 14000 is primarily concerned with "environmental management", checking the management procedures, policies and productions of companies regarding the effects on the environment. Both standards have become increasingly prevalent in the past decade and, like "Total Quality Management", have the effect of reducing workers' bargaining power and making them more vulnerable to the management of companies.

⁷ *Hong Kong Economic Daily*, 1998.4.7.

⁸ Teresa Fabian (CEP's researcher), *Social Accountability 8000(SA8000) – the first auditable global standard for ethical sourcing driven by CEPAA*, CEPAA, January 1998, http://www.citiv.it/org/CNMS/archivio/lavoro/Presentazione_SA8000.html

Some big Hong Kong companies, such as Bingo Corporation Ltd, investing in China have already applied for certification. In an industry publication, a toy manufacturer states that SA8000 “can generate profits for the company by improving the working environment, stimulating work morale, reducing accidents, safeguarding company reputations, increasing confidence among investors and consumers alike, upgrading product quality, facilitating effective management between subcontractors, as well as sharpening the company's public image”.⁹ SA8000 is thus glorified as a cure-all mechanism for suppliers, TNCs and workers alike. Yet how much of SA8000 would really bring about changes beneficial to workers? In view of its growing prevalence, labour rights groups must have a clear and critical understanding of what really lies behind the standard and try to capture the foreseeable impact the standard would have on labour movements, both in the manufacturing south and sweatshop-reviving north.

So-called Accountability: Another Smokescreen for the Gold Rush

Before we look into the logic underlying the standard, we first offer a close scrutiny on the operation of the standard itself.

Lack of Transparency of CEPAA

There are altogether 26 members in CEPAA's advisory board.¹⁰ The criteria for appointment are unknown. The majority come from the business sector, including Reebok, Toys R Us, Avon Products, etc. Only one member comes from a union background and a few are from non-governmental organizations. The imbalance of interests on the board is obvious, bringing its impartiality into question, and suggests that any pro-labour proposals would be automatically vetoed because of the in-built business bias of the board. The credibility of the council is also cast into doubt by the fact that TNCs like Reebok and Toys R Us have long been under attack for their poor records in labour rights. The credibility of CEPAA is especially questionable since these same companies might apply for certification, too. There are two CEPAA advisory board members from SGS, one of the biggest auditing firms in the world. The fact that SGS is the first SA8000 certification body accredited by CEPAA further

⁹ *Hong Kong Productivity Council Toys Bulletin*, 98.12.4, p.72 (In Chinese)

¹⁰ CEPAA's advisory board is composed of Douglas Cahn (Reebok), Sharon Cohen (Reebok), Thomas DeLuca (Toys R Us), Fita Hilaire (Avon Products), William Kunz (Avon Products), Johannes Merck (OTTO-Versand GmbH&Co), Jack Sheinman (Amalgamated Bank), John Brooks (SGS), Jeffrey Horner (SGS), Ian Spaulding (KPMG-Peat Marwick), Winsthrop Swenson (KPMG-Peat Marwick), Petrina Fridd (Sainsbury's), Geoffrey Spriegel (Sainsbury's), Joseph Blumberg (Group M, S.A.), Lee B. Thomas Jr. (universal Woods, Inc.), David Zweibel (Eileen Fisher), Alistair Jackson (The Body Shop), Alice Tepper Marlin (Council on Economic Priorities), Simon Billenness (Franklin Researcher & Development), Prof. Ray Marshall (University of Texas), Miriam Donovan Lyons (Association Francois-Xavier Bagnoud), Dorianne Beyer (National Child Labour Committee), Jeffrey Newman (National Child Labour Committee), Oded Grajew (Abrinq), Geoffrey Chandler (Amnesty International), Neal Kearney (International Textile, Garment & Leather Workers' Federation).

illustrates the bias of the council. The whole business of SA8000 smacks too much of self-appointed regulatory mechanisms or even “insider-trading”. Auditing firms conduct audits with companies according to requirements laid down in SA8000 standards, yet what criteria does CEPAA rely on to monitor the auditing firms themselves? The core question we ask is to whom CEPAA would be accountable, i.e. where does the authority of CEPAA come from? If its authority derives from its advisory board, then it is blatantly dominated by a handful of TNCs.

The Farce of SA8000 Training Courses

To become auditors for the standard, individuals or professional auditing firms have to attend a training course organized by CEPAA and pass an examination at the end of the course. Those who pass the examination can then be members of the monitoring team under guidance of a leading auditor. After a certain length of time and further assessment, auditors can become leading auditors. Apart from some suggestions recommended in the Guidance Document II, which is only for reference, there is no specific rule on how auditing should be conducted. The intensity, frequency and total number of audits, plus final certification, are all decided by the individual auditing team. When dissatisfied with the certification of a company or accreditation to a certification body, workers, non-governmental organizations, unions and other parties, can “use objective evidence to appeal the decision” and “register a complaint with CEPAA”.¹¹ However it is highly unlikely that any workers would have the opportunity of seeing either a draft or the final report in their own language.

Asia Monitor Resource Center (AMRC) and the Hong Kong Christian Industrial Committee (HKCIC) were invited to participate in the training workshops in Shenzhen and Hong Kong organized by the CEPAA in July 1998 and March 1999 respectively. The three-day course was instructed by someone who was a retiree from the big US company AT&T. He said he had worked in the management of the company for over ten years. He confided to AMRC and HKCIC researchers during a tea break in the Shenzhen course that he had utterly no experience with non-governmental organizations and he had no human rights background whatsoever. Before he got this job, he had never been to any labour intensive factories. It was just for the preparation of these training courses that he went to two factories in Central America. He had never even set foot in Asia before this course was devised. But he had plans to visit two shoe factories in Panyu after the Shenzhen course concluded. With no human rights background on his resume, only experience from management of big US companies, and for whom all knowledge about EPZs and labour rights'

¹¹ Guidance 1998-II: Guidance Document for Social Accountability 8000, CEPAA, June 1998, p.7.

violations come from reading and plagiarizing NGOs' research reports,¹² to our great dismay, this man was actually instructing the whole course. Though ignorant about labour rights conditions in the developing world, the whole course structure, teaching materials, exam papers and the subsequent assessment marking were all developed and prepared by him. When asked about situations that were not included in the Guidance Document, his more memorable gems include, "let's just consider an average situation", "I am not going to give you the answer, we are all learning here", as well as "this is not a perfect system, it was designed to be interpreted." His emphasis was always on facilitating the "thought process" necessary for interpreting the standard in the most flexible way.

Yet what unsettled us most was his persistent emphasis on the "intent" of the companies. He repeated time and again that no companies would violate labour rights deliberately. He even went so far as to claim that big companies such as Nike and Reebok were actually quite nice, "the dormitories are nice, the facilities are nice" and that the problems are in the small companies, apparently ignorant even about the heated consumer campaigns targeting big companies in his own country. By constantly reminding students that "we go for the intent" and that "remember the intent is the most important thing", the trainer sent out the signal that auditors need not be too harsh on big companies since they bore good intent, and that the intent could be used as the most significant parameter to determine whether a non-conformance with SA8000 requirement was a major one or a minor one. Auditors have the decision-making power to certify companies with ten or more minor violations of the standard, as the instructor made it clear repetitively to emphasize the flexibility of the standard. When the students couple together his points of "nice big companies with good intent" and "labour rights violations as minor oversights", this could fundamentally bias the auditors in their certification.

A total of 33 people attended the course held in Shenzhen, excluding AMRC and HKCIC researchers. Most of them came from various parts of China as staff of different auditing firms like BVQI and DNV. When our researchers asked the people at the end of the course what they knew about NGOs, only two people said they had heard of them before. A most disturbing revelation about the total disregard for labour and human rights emerged in one class discussion. In one of the case studies discussed in class, students were presented a case study in which a worker was slapped by a manager in a factory. Students were asked what questions they would pose when conducting audit in the factory. One of the students answered that he would ask whether the worker was too lazy! Most of the people were already professional auditors for ISO9000 and ISO14000, with degrees in engineering, chemistry and accounting. Our researchers found out through chats with them over lunch breaks that they had very little knowledge about human rights and labour rights.

¹² The course materials blatantly plagiarizes the *Working Conditions in the Sports Shoe Industry in China*, published by Asia Monitor Resource Center and Hong Kong Christian Industrial Committee in October 1997. Part of the report was plagiarized for a case study in the course materials. Other than changing the country name from China to Vietnam, over 90 percent of the wording are not altered. Outrageously, under the materials was written: "CEPAA – All Rights Reserved. No portion of this document may be reproduced, in whole or in part, without the express written consent the CEPAA".

But in the afternoon of the third day, they were tested and accredited to be auditors. How could we expect a few days in a training course, led by an unqualified instructor, to qualify them as professional arbiters of labour rights?

In the course held in Hong Kong, there were 38 participants from China, Hong Kong, Italy, India, Norway, Vietnam and Singapore, excluding AMRC and HKCIC researchers. As was the case with the Shenzhen course, most participants were already qualified ISO auditors from different auditing firms. What worried AMRC and HKCIC researchers most in this course was the apparent pro-management mentality of many participants. During class discussions, some matter-of-factly remarked that "auditing is a business", "this is a management system.....if we follow the words of the standard, who's going to be certified? Nobody!" And, perhaps most revealing of all, "if the company goes bankrupt, we don't get the audit fees." According to the instructor, altogether 175 students participated in the previous courses and only one failed the exam due to language difficulty. The instructor provided this information to sooth the exam-panicking students, but this little piece of information worried us very much. Without genuine concern for workers' well-being, plus the lack of "intent" of the course to help them see through workers' perspectives, these SA8000-social-auditors-to-be from this substandard three-day training course can hardly be expected to right the wrongs of TNCs and benefit the hard-pressed workers.

Proponents of a third party monitoring codes of conducts always claim that given training third parties can overcome their insufficient knowledge about the field and conduct monitoring competently.¹³ This wishful thinking in the case of SA8000 has been shattered by our experience with the accreditors' training course. As the instructor said repeatedly in the course, when telling students not to ask him for clear problem-defining formulae, SA8000 was like building a plane and flying at the same time. We could not agree more – a plane like that is doomed to crash, and this one is crashing on the workers.

Limited Effectiveness of Auditing Activities

There is no fixed rule for the composition of the auditing team. In Guidance Document II, it is suggested that there must be people who are the same gender and speak the same language as the interviewed workers. However, in China and other developing countries, a group of well-dressed visitors usually look like management to workers. Even if the team explain their position to the workers, it is difficult for workers to trust important-looking strangers and share their true feelings for fear of reprisal and dismissal, particularly in the absence of truly independent trade unions. If there are foreigners in the team, workers get even more wary since foreigners are usually seen as the plant's business buyers. We were told by some women workers in southern China that they were ordered to keep their heads down when there were

¹³ Bama Athreya, "Codes of Conduct and Independent Monitoring: Strategies to Improve Labour Rights Enforcement". International Labour Rights Fund, 24 May 1998.

foreigners visiting the plants. They were not allowed to hold up their heads and look, because it would give the buyers the impression that the workers are idle, lazy and not serious about production. Because foreigners are most often only seen with management, in the context of an SA8000 scenario, it will be a real challenge for an outside foreign social auditor to gain the workers' trust. More importantly interviewed workers need to be protected from management retribution. And, if the auditing team always visits factories under the auspices of management, there will definitely be time for the latter to make arrangements to impress the auditors, such as cleaning and warning workers to speak "properly", etc. All this would render the data gained in the auditing expeditions largely meaningless.

Inability to monitor a Multi-level Subcontracting Chain

As we all know, the buzzword for globalisation is flexible production. TNCs enjoy the advantage of fully exploiting transnational operations so that they can handle rapid market changes in affluent countries and can meet consumer demands of quality, price and timing. A TNC might make pledges to SA8000 and require its manufacturers to follow suit, while manufacturers might also require their subcontractors to follow suit. But would all TNCs reveal the information about all their manufacturers? Or would they only reveal a few among many for auditing purposes? What about the suppliers and the sub-subcontractors further down the line? There is little guarantee that all players in this global subcontracting system are all committed to the standard pledged by the codes. A quotation from the International Textile, Garment and Leather Workers' Federation can help shed light on the intricacy of this web, "one medium-sized US retail company sources its textile products from no less than 13,000 suppliers. These in turn use on average five sub-contractors, resulting in the retailer actually sourcing from 78,000 different sources of supply, with the added complication that many of these change from season to season".¹⁴ The situation is even worse when considering the increasing trend of casualising production tasks to home-based workers in the informal sector,¹⁵ a problem which SA8000 does not address. This would result in the TNCs with inflated images of themselves reflected in the shining armor of SA8000 while a large part of the products are still produced under exploitative working conditions.

A Façade of Public Monitoring

¹⁴ Quoted from the paraphrase in *Company Codes of Conduct: What are they? Can We Use Them? An Education Pack for Worker Activists*, Women Working Worldwide, July 1998.

¹⁵ It is estimated that the informal sector constitutes one quarter of the world's economically active population, i.e. some 5000 million workers, excluding child labourers). The informal sector covers over 93% of the workforce in India, 80% in the Philippines and 75% in Thailand. See *Asian Labour Update*, No.24, April 1997.

As noted above, a company can be certified with SA8000 even though it violates up to ten aspects of the standard. The auditors, no matter how poorly trained, have the authority to decide whether conformances are major or minor ones. Yet what constitutes major and minor conformance is not defined and unavailable to the public and, as the SA8000 instructor emphasized, the standard is "flexible", and "designed to be interpreted". Non-conformance with a major requirement might well be assessed as minor and the company becomes certified. What's more, modeled on ISO9000 and ISO14000, SA8000 audit reports are confidential private properties of the companies who pay to be audited, and are unavailable to the public. Though the standard requires the companies to inform "all interested parties" about their performance as measured by the standard, the credibility of such data is in doubt. Companies can always selectively release results of the reports and repackage the presentations to tell a totally different story. Without access to the audit reports, the public simply gets to choose between companies with SA8000 certification and those without.

Worse still, companies which gain SA8000 certification can proudly fence off public monitoring and can thus mislead the public to think that they are good and "clean" companies. In fact, companies learn quickly and are already using SA8000 as their shield to evade challenge. In August 1998, two balconies of a Hong Kong owned toy factory, Bingo Corporation Ltd., collapsed due to shoddy construction. Five workers were killed and more than twenty-seven were injured. Local government authorities and the factory management forbade workers to leak information to the public. Police and security guards also denied the press accesses to the victims. The Coalition for the Charter on the Safe Production of Toys sent a letter to the company, demanding to know the arrangements of medical treatment and compensation to the victims and where the responsibilities should lie. In its reply, the company stated that it could meet SA8000 standards and had already applied for certification. The NGO was thus told not to worry because labour conditions were up to standard in their factory, even though it was revealed that one of the deceased victims of the accident received a very low monthly wage of about RMB300 (about US\$40).¹⁶ The Hong Kong Christian Industrial Committee then met with the auditing firm Bingo hired, BVQI, and provided much information about the labour rights situation and the formidable obstacles for SA8000 auditing in China as requested by the firm. Yet when the NGO discussed with the auditors about Bingo's labour rights practice, the auditing firm refused to reveal the observations it had made on the company, its auditing methodology and its criteria for certification. Behind this shield of confidentiality, the auditing firm wards off public scrutiny of their auditing and the public is told to be satisfied with a seal of unaccountable validity.

Despite SA8000's emphasis on the input of trade unions and NGOs, it is clear that this is only smooth-talk for the consumers. Trade unions and NGOs are nothing more than ad hoc "consultants" for the social auditors. Auditors can visit such groups and get information, and trade unions and NGOs might feel obliged to respond since it has to do with labour rights issues. However, the auditing firms have no commitment or

¹⁶ *Apple Daily*, 98.8.22.

reciprocal intent to provide information to them, and as with the abovementioned case, might flatly refuse to provide information under the pretext of "commercial confidentiality". In case of revealed violations in a factory, the management needs only to show the SA8000 certification from an auditing firm, and then easily fob off complaints from trade unions and NGOs. The latter then will not deal with companies directly but with the auditing firms. SA8000 henceforth serves just as another public relations tool for the companies to evade public challenge.

SA8000 Attacks Labour Rights

Privatisation of Labour Rights

On first sight, SA8000 might appear to present a "breakthrough" in the monitoring of company codes by entitling auditing firms to guarantee enforcement of workers' rights. Yet if one examines the operation of the standard more closely, it is easy to discern that workers themselves have no active roles to play in the whole auditing and certification process, but are merely on a checklist at the mercy of social auditors. Historically, workers have always had to win rights. These rights were never granted or audited into existence. If a code is to have any value, it should be aimed at encouraging workers to become involved, as opposed to the SA8000 model which has the effect of alienating those it claims to protect. Workers, instead of being active agents for social change, are stripped of the ability to stand up for their own rights. All they can do in the whole SA8000 farce is complain to the auditors – to whom workers' rights are no more than another business deal.

The legitimacy of auditing firms as arbiters of social justice also stands on shaky ground. As studies on the auditing business have revealed, auditing firms serve the interests of their paymasters by customizing versions of "truth" to suit the interest of companies.¹⁷ The notorious Ernst & Young Report fully demonstrates this by painting a rosy picture of Nike's labour practices in Vietnam. Nike hired Ernst & Young, one of the Big Six accounting firms, to audit their performance in a factory in Vietnam in 1997. The report, which concluded that the factory lived up to Nike's code, was to be kept confidential and Nike trumpeted a public relations campaign to claim that its products are produced under good labor rights standards. The Ernst & Young Report was later leaked out to the public and it was revealed that negative findings were withheld from the public by Nike. Reassessment of the report also reveals that the audit was poorly conducted and rife with errors.¹⁸ Though CEPAA might agree that

¹⁷ Susan Strange, "The Big Six Accountants", in *The Retreat of the State: the Diffusion of Power in World Economy*, U.K.: Cambridge, 1997, pp. 135-146; R. W. Perks, *Accounting and Society*, London: Chapman and Hall, 1993.

¹⁸ See Dara O' Rourke, *Smoke from a Hired Gun: A Critique of Nike's Labour and Environmental Auditing in Vietnam as Performed by Ernst & Young*, Transnational Resource and Action Center (TRAC), November, 1997.

their auditing procedures are much more systemically run, with training courses for auditors and advice from NGOs, our researchers' observation of the training courses as noted above tell another tale.

As things are, many TNCs plump for SA8000 because they see the "role" of the social auditors in the process of auditing. Social auditors will only ever be bystanders. They are never concerned with how to improve workers' participation and they will not train workers to protect their own rights. They might even come from the same firms which offer consultancy to TNCs on how to bust unions and downsize workers. During audits, when social auditors ask workers about trade unions or protecting their rights, because workers lack knowledge about their rights, they may easily answer that there are no problems in the factory, whereas the truth may be quite the reverse. And the auditors might not be disturbed since they themselves might also only have meagre knowledge on workers' rights. Why should companies not be happy to hire social auditors when workers' rights, particularly in relation to collective bargaining and organizing, might never be indemnified? Under this SA8000 game, they never need to be worried that the workers will organize to become effective monitors in the factory.

SA8000 takes away the rights to assessing workers' rights from the hands of workers and leaves it entirely to the sporadic visits of the so-called labour rights professionals, i.e. SA8000 auditors. Workers are further sidelined and deprived. The creation of a service industry for monitoring codes or SA8000 is driven by the logic of global corporate rule. While auditing firms earn big bucks in the whole auditing business and TNCs and other players are endowed with the halo of conscientious do-gooders, workers are used as mere pawns in the game. In return, some NGOs are offered the sweetener of acting as occasional consultants for auditing firms, helping the latter to roll in money in the name of social advancement. The halo of labour rights is thus commercialised in the interests of companies in the SA8000 business.

Assault on Popular Movements

The essence of SA8000 lies in the power of the auditors to decide whether to certify the companies or not. Workers are selected randomly for interviews with the auditors who will decide whether their rights have been violated or not. This individualistic approach of complaining to auditors will unitise workers and fragment the potential collective power of workers. Although the standard requires companies to respect the rights to freedom of association and collective bargaining and companies are also

required to facilitate “parallel means”¹⁹ in countries where these rights are restricted under the law, it is still unclear how this will be implemented. In Guidance Document II, it is suggested that companies can assist selection of workers’ representatives. This raises further questions of whether this would become a divide-and-rule tactic of the companies to break down latent solidarity among workers.

Another limitation on workers’ collective power is that workers are isolated in particular factories, and that there are no linkages among workers in different factories.

All grievances of workers are to be resolved within the confines of particular factories, and the final verdict is in the hands of auditors. This undermines workers’ identity as members of the whole working class, and leads to an eclipse of the social and political power of workers.

Promoting Global Corporate Government and the Regime of TNCs & Auditing Firms

SA8000 is an initiative from the north. It is intended to match the codes of conduct initiatives taken by TNCs to polish their tarnished public images, not because they become suddenly concerned about workers' rights and well being primarily in the south. It is why many TNCs do not even bother to translate their English written codes into languages of workers making their products. Wal-Mart, among many others, took six years to translate its code. The corporate codes are PR tools written for consumers primarily in the north. The root of SA8000 is embedded in consumerist values and consumers are told to select products from SA8000-certified brand names, or those made by SA8000-registered suppliers. The brand-based strategy campaigns, adopted to differentiate good and bad brand names, have actually benefited competing TNCs which advertise themselves as “better” than their competitors, as critics have pointed out. The effect is that it undermines the labour

¹⁹ There is no clear definition of "parallel means of independent and free association" in the standard. There are indeed some suggestions in the for-reference-only Guidance Document where the Sullivan Principles are cursorily mentioned, apparently to strengthen the case of corporate "constructive engagement" in countries under repressive regimes. To fill in the details, the Sullivan Principles are initiated by Leon Sullivan (then member of the General Motors board of directors) promoting equal treatment of black employees in the South African during the apartheid era. The principles, however, were widely criticized by activists in South Africa, saying they actually legitimized US corporate interests in the country, and allowed continued corporate support to the white supremacist government. In fact, many notorious companies have been steadfast supporters of the Sullivan Principles, for example, Shell and Chevron. Both oil companies have long been exploitative of the indigenous people and natural resources in Africa. Chevron also supports the brutal military regime in Nigeria which has habitually shot down peaceful protestors, innocent bystanders and burned down villages. Both companies and other multinationals also support the "NAFTA for Africa" bill in the US which will undermine African countries sovereignty for US TNC's interests. One should be clear about how multinationals publicize themselves in glittering pro-human-rights wraps, like the Sullivan Principles, and do just the opposite.

movement by distracting monitoring attention and leads to neglect over working conditions in factories making other products.

On the other hand, companies which can hire auditing firms to do the auditing and spend money on improving the working conditions usually have big investments. Small-scale companies will be treated as “bad companies” because they do not have the financial ability to apply SA8000. Over time, SA8000 will become the weapon of big-scale companies to attack small-scale companies on the competitive market. For companies, SA8000 can head off effective collective criticisms from NGOs and trade unions and, more importantly, it can negatively affect genuine organizing. Besides, SA8000 can increase their competitive capacity.

Moreover, SA8000 facilitates the penetration of transnational corporate power to undermine the sovereignty of weaker states. Usurping state authorities, TNCs and auditing firms appoint themselves legislators for labour rights. Under the rules of the SA8000 game, workers and concerned groups are to demand particular companies and auditing firms to enact regulations for social justice. This reliance on footloose transnational capital to ground labour rights firmly in society is self-defeating in the final analysis. SA8000 suffers from the fatal error of not coming from local governments using labour laws to change labour practices. TNCs have no genuine commitment to social justice and can easily change their manufacturers and suppliers. One also has to remember that these TNCs are usually backed by international apparatuses of neoliberalization like GATT/WTO, APEC, MAI, OECD, etc. This is the global politics of how capital powers in the first world come to manipulate the lives of people in the third world by compromising local government power. This is not to excuse the weaker states, since they are usually ruled by governments with vested interests that render them willing players in the global scenario of repressing labour rights under the pretext of increasing national profits. What is at the core of this corporate rule is that, instead of encouraging governments to repeal laws that deny workers the right to organise and fight for their own rights, labour groups are led to believe that compliance with SA8000 can improve workers’ conditions in the developing world. This deflects demands for social changes by obliging TNCs instead of states to guarantee social justice.

Placing accountability and the power of change on the global level not only makes it hard for workers to understand how they fit into the whole picture, but also removes the access they can have to the parties which want to assist them. SA8000, like other codes, can be a powerful distraction to what is recognized as possibly the most effective and democratic instrument of protection - a directly negotiated collective bargaining agreement.

Conclusion

SA8000, rather than a vehicle for improving labour conditions as advertised, is in

essence another beautifying lip-gloss for corporate interests, helping companies to sweet talk and coax affluent consumers. It is part of the corporate-led global domination that leads workers away from united action. There is no room for solidarity among workers under different corporate regimes. SA8000 disempowers workers, making them vulnerable to the whims and caprices of social auditors and market forces. Labour rights activists have to maintain a critical stance and have a clear idea of how SA8000 fits into the big picture of labour-repressive neo-liberalisation, privatisation and globalisation.