

# THE INTRICACIES OF CORPORATE SOCIAL RESPONSIBILITY

Ruth Rosenbaum, TC, PhD  
CREA: Center for Reflection, Education and Action, Inc.

There are many ways to examine corporate responsibility. As a starting place, CREA proposes two lenses through which to examine Corporate Social Responsibility (CSR):

- A revised stakeholder model in which sustainable communities within sustainable eco-systems and econo-systems are the center, not the corporation,
- The placement of Corporate Social Responsibility within the Human Rights framework.

The following information examines several key components often missing from discussions of corporate social responsibility:

- The economic components of human rights as related to corporate behavior;
- The regulatory standards for corporations as well as the role that corporations play in establishing and enforcing those standards;
- The need for systemic analysis of corporate programs, policies and practices rather than the more usual issue-by-issue approach. The systemic analysis reveals a complex situation that involves many who may not ordinarily think of themselves as a part of the corporate world and as having corporate social responsibility themselves.

The paper places the systemic analysis of corporate programs, policies and practices within the framework of the challenges of the current form of economic globalization which fails to provide global governmental structures that can hold corporations accountable for destructive impacts upon human communities and their eco-systems.

Two key examples are used to illustrate the impact of corporate policies, programs and practices upon the sustainability of human communities, econo-systems and eco-systems: wages/income, and water. The paper concludes with recommendations based upon our experience at CREA and the experiences of many of our colleagues in the field of corporate social responsibility.

## 1. Introduction

1.1 Corporate Social Responsibility Defined. Corporate Social Responsibility is the internal awareness of and the public acceptance by corporations of their moral and legal liability for the effects of their practices, policies, and programs on the sustainability of human communities, econo-systems and eco-systems wherever the corporations operate. After an historical period of corporate excess in the United States, the Supreme Court determined: “The corporation is a creature of the state. It is presumed to be incorporated for the public benefit.” (Hale v. Henkel, 1906) Acceptance of such responsibility was then the foundation for legal incorporation within local communities, where the corporation was expected to act as a responsible citizen in return for its recognition as a legal person. The local community had the ability to monitor the actions of the corporation within it and hold it accountable.

## 1.2 Corporate Social Responsibility in a Globalized Economy.

The functioning of the present form of economic globalization with its contract supplier system has made Corporate Social Responsibility (CSR) a global issue. The contemporary question is what are the laws or standards to which transnational corporations are now to be held

accountable, since they operate in many nations having different standards and different legal systems. Who is the “social” to which the corporation is responsible? Is there only one “social?” Who are the “stakeholders?” For what is the corporation responsible? Who decides? How is the degree of fulfillment this responsibility to be measured? Who decides the standards? Who provides the “report cards” and of what type? These are but a few of the questions being raised throughout the world as the social, economic and environmental effects of corporate programs, policies and practices are experienced at all levels of a corporation’s operations as well as by communities and countries worldwide.

### 1.3 Corporate Social Responsibility and Sustainability

As persons and communities throughout the world become increasingly conscious of the human, economic and ecological toll taken by harmful and shortsighted actions of corporations, governments and individuals, there are many calls for change. These calls recognize that both human communities and their environment have to be sustainable, i.e., they have to be able to support present life and life into the future. Economic systems are not inevitable results of some unseen forces. They are the result of the decisions of human beings, both individually and collectively in societies, corporations and nation states. Therefore, these decisions can be modified and changed.

The time is ripe, if not overdue, for a deeper understanding of the role that corporations have come to play in the sustainability (or lack thereof) of communities, countries and whole areas of the globe...and then to provide means of assessment and plans of action that will lead to productive change for all forms of life involved, including the human, within the interdependent eco-systems and econo-systems.

1.4 There are many lenses through which to examine the intricacies of CSR as they are expressed in different issues. This paper has chosen two lenses, among the many possible, through which to examine CSR:

- A revised stakeholder model in which sustainable communities within sustainable eco-systems and econo-systems are the center, not the corporation. If a corporation is allowed to operate in a community, it must see itself as part of a system in which community sustainability is the goal. The corporation is held by the community to a system of mutuality and accountability.
- The placement of CSR within the human rights framework provided by the Universal Declaration of Human Rights and the conventions and international agreements that have developed since that declaration.

### 1.5 Unpacking the key issues using the Human Rights framework.

Using the human rights framework, this article will “unpack” some of the issues interdependent with “corporate social responsibility” and will focus on the two issues of wages/income and access to water as key examples. The article will address several key components often missing from discussions of CSR:

- The economic components of human rights as related to corporations;  
The standards for corporations as well as the role that corporations play in establishing and enforcing those standards as differentiated from role of the local and national communities to set and enforce standards;
- The need for systemic analysis of corporate programs, policies and practices rather than the more usual issue by issue approach. The systemic analysis reveals a complex

situation that involves many who may not ordinarily think of themselves as a part of the corporate world and as themselves having corporate social responsibility.

Many issues have arisen over the past thirty years within the world of CSR, starting with the marketing of infant formula and the World Health Organization code used to regulate that marketing, continuing with the use of shareholder and corporate power to assist in the fall of apartheid in South Africa, to contemporary concern about sweatshops, genetically modified organisms, extractive industries, and sustainability. The underlying principle is that corporations do not have the right to act only out of concern for their shareholders' profit, but they have the moral obligation to act in the best interests of the communities where they operate and which they impact, no matter where they are in the world.

## 1.6 Recommendations

This section ends with recommendations of steps that can be taken by consumers, investors, and local governments as they call corporations to CSR. These suggestions are based on the author's more than a decade of experience in the field of CSR, the shared experience of her colleagues in the CSR movement, and the author's personal experience as a social economist and researcher on Sustainable Living Wages/Income. Among other roles within the CSR world, the author has served as an active member of the Interfaith Center on Corporate Responsibility for the past ten years, collaborated in the development of the Global Principles, served for two years as a task force member in the development of the Global Reporting Initiative, and presently serves as the Co-Chair of the Multi-Stakeholder Council of the Global Reporting Initiative.

## 2. The Human Rights Framework

There are many frameworks to examine the ability of the corporation to function as a stakeholder in any community. The human rights framework is used here because by definition, the Universal Declaration of Human Rights is universal and therefore applicable to all human beings.

2.1 The Universal Declaration of Human Rights of the United Nations has enumerated the basic rights to life, liberty and security, and the economic and social rights held by all persons. It provides, therefore, common standards regarding human rights and freedoms. It states:

“Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms, and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. “

Article 2. Everyone is entitled to all the rights and freedoms set forth in this declaration, without discrimination of any kind...”

## 2.2 Declaration Articles 3 – Article 21: Life, Liberty and Security

These are the listing of rights related to life, liberty and security. They prohibit slavery, torture, and cruel or inhuman or degrading punishment. They list the rights to recognition as persons before the law, to freedom of association and peaceful assembly, freedom of movement, asylum, religion, marriage, freedom of opinion and expression, to participate in the government, to protection against discrimination, arbitrary arrest, detention or exile. These could be called the “Exotica” Human Rights, those rights related to circumstances that no one, anywhere in the world, should ever have to experience or endure.

The Exotica invoke images before our eyes of intense suffering of individuals and groups...and the work associated with the Exotica is to alleviate and prevent these sufferings. Part of the reason they demand such attention is that they have traditionally been seen as violational to what it means to be a human being.

Most often, human rights issues related to CSR have focused on the Exotica. There is usually an all too brief spotlight on a horrific situation in which aberrant behavior on the part of those with power affects those without the power. This has happened

Often in the past, the spotlight has passed, and public attention has passed too...without the changes that are needed to alleviate the present situations and/or prevent like situations in the future. Each occurrence has been seen as just that, a separate occurrence, without the systemic analysis needed to question the issues of control, power and voice that allow such instances to occur and to be heard.

In the context of CSR, the involvement and responsibility of corporations in these kinds of human rights abuses has been raised by non-governmental organizations such as Amnesty International, Human Rights Watch, Earth Rights International, the Lawyers Committee on Human Rights, the Center for Constitutional Rights, and OxFam International, as well as by indigenous groups in countries around the world who have been most affected by the policies and practices of some corporations. Increasingly, these groups have brought their cases to U.S. courts, using the Alien Tort Statute. These cases are an important step in establishing the legal liability of corporations for abusive behavior in other countries. In other words, they provide a significant legal channel for the voice of abused communities to be expressed, and for these communities to challenge the power of the corporations involved.

TABLE I: Some Recent Cases against Corporate Defendants. Source: Earth Rights International.  
[www.earthrights.org/litigation/recentatcacases.shtml](http://www.earthrights.org/litigation/recentatcacases.shtml)

Wiwa v. Royal Dutch Petroleum (Shell). Hanging of nine leaders of the Ogoni People of Nigeria, torture, shooting of a peaceful woman by Nigerian troops called in by Shell. A 2001 appeal to the Supreme Court was declined. The Company's motion to dismiss the claims was denied in 2002. Plaintiffs are now gathering evidence for the trial.

Aguinda v. Texaco, Inc. 2002. Class action suit of residents of a region of Ecuador and residents of Peru living downstream from that region against the oil company for environmental and personal injuries. Dismissed on the grounds of being lodged in an inappropriate forum.

Arias v. Dyncorp. 2002. Group of Ecuadoran farmers' suit charging the company with illegally spraying a toxic fumigant causing serious health effects, crop and property damage, and death.

Bano v. Union Carbide Corp. 2001. Victims of toxic gas disaster at chemical plant in India, their next-of-kin and groups representing victims. Claim of violations of international law. Dismissed under Alien Tort Claims Act; returned to District Court for environmental claims.

Beanal v. Freeport-McMoran. 1999. Indonesian citizen's suit alleging environmental abuses, human rights violations and genocide. Dismissed.

Sarei v. Rio Tinto. 2002. Papua New Guinea resident brought a class action suit alleging that the company's mining operations destroyed their environment, harmed the health of the people, and incited a civil war. Dismissed.

In a closely watched case that would have affected the outcome of lower court cases, the U.S. Supreme Court ruled on June 29, 2004 on the *Sosa v. Alvarez-Machain* case referred from the U.S. Court of Appeals, Ninth District. (Supreme Court, Nos. 03-339 and 03-485.) The importance of the case lies in its precedent-setting interpretations of the Federal Tort Claims Act (28 U.S.C. § 1346 ) and the Alien Tort statute ( ATS ), one of the first laws established by the First Congress in 1789, and the law that provides jurisdiction in federal district courts “of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.” For additional opinions of the Supreme Court on this issue, see [www.supremecourtus.gov/opinions/03pdf/03-339.pdf](http://www.supremecourtus.gov/opinions/03pdf/03-339.pdf)

This Statute will be more fully tested when another case that is before the Ninth District U.S. Court of Appeals reaches the U.S. Supreme Court, *Doe v. Unocal*, in which residents of Myanmar charge Unocal Corporation with human rights violations.

## 2.2 Declaration Articles 22 – 30: Economic and Social Rights

Rights that affect the daily life of the person, family, community and country might well be called the “Economica.” The Economica are those rights that are dependent on income, on the ability to support oneself and one’s family. The Economica are those rights associated with creating a community that can function as a whole while attending to the needs of its members.

*The Economica are the rights associated with food and clothing and with access to education and the social systems in which we all live. The Economica are those rights associated with having a home, with employment and the ability to earn sufficient purchasing power for a decent standard of living. When these rights are violated, the suffering may be just as intense as in violation of the Exotica rights; but it is often hidden away in homes, or in shelters, or on the streets, only revealed in infant mortality rates, increases in outbreaks of diseases, or lowered life expectancies.*

In addition, the Economica are what allow persons, families and communities to have control over their present and their future, not allowing every aspect of their existence to be determined by how profitable they can be for someone else.

The whole issue of who gets to decide, to define, to determine how the future will be in any community is most often linked to economic power. If the Economica are not recognized as intrinsic human rights, then that power will never be possible for most people. Even the whole issue of productivity transforms the human being into a machine saying that it is better to work faster and more and denying the other aspects of the human being...of creativity, relationship, and existence in the social dynamics.

*Within the Economica, it is possible to find some of the most consistently violated human rights standards. These violations, while present in the past eras of colonization, are seen in our times in the contract supplier system operative in most industries where the competitive nature of the system forces the search for lower wages. While the media focus has often been on specific companies connected to abusive situations within an industry, it is the system within which these corporations must function that needs to be addressed if systemic change is going to take place.*

It is only in the “unpacking” of the economic and social systems that govern and/or regulate on all levels that we will come to understand the systemic changes necessary to honor the right to food, to water, to work, to a home, etc. for example, this “unpacking” must include a more systemic analysis that includes understanding the importance of raising of questions regarding who is the subject when countries are spoken about. For example, when we are told that free trade benefits a country, about whom is the statement speaking? The government? The workers? The corporations? Investors? Who else? Are the benefits equally shared among the various segments of the society? Is the Common Good affected?

When news is reported that a country’s economy is recovering, about whom does the statement speak? Does it mean a sharing of the profitability with workers throughout the supply chain? Or does it mean only the investment community and the profits of corporations? When reports indicate that jobs have been created, where is the space to ask about the working conditions? The wages/salaries? The benefits? Are the benefits of this recovery shared throughout a community and society? Who decides?

## 2.4 Responsibilities of Corporations with regard to Human Rights

The responsibility of corporations for the impact of their actions on human rights has been articulated in *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*. While recognizing the primary responsibility of the state for securing and protecting human rights, the norms apply the same responsibility to transnational corporations and other business enterprises “within their respective spheres of activity and influence.” (United Nations Economic and Social Council, 2003)

## 2.5 Wages/Income

### 2.5.1 Sustainable Living Wage as a foundational Human Right

It is a major thesis of this paper that a Sustainable Living Wage/Income is the foundational economic right that makes possible the attainment of the other economic rights. Without this kind of wage or income, workers cannot provide for adequate and decent shelter, potable water, nutrition, education and health care for themselves and their families. Since corporations are major employers, either themselves or through their suppliers, they have a responsibility to ensure that this right to a Sustainable Living Wage is respected in all their operations and throughout their supply chains.

*“Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.” (Article 23, Universal Declaration of Human Rights.1948.)*

This basic right is further articulated in the International Covenant on Economic, Social and Cultural Rights, and in the constitution and conventions of the International Labor Organization. (ILO 1977 ff.) It is incorporated into the Norms on the Responsibilities of Transnational Corporations and other Business Enterprises in #8, which states:

*“Transnational corporations and other business enterprises shall provide workers with remuneration that ensures and adequate standard of living for them and their families. Such remuneration shall take due account of their needs for adequate living conditions with a view towards progressive improvement.”*

## 2.5.2. The Purchasing Power of Workers and Economic Globalization's Search for Profit Maximization

The contemporary form of economic globalization is driven by the search for profit maximization. When workers' wages are considered costs, the search is for countries and regions where the minimum wage is the lowest becomes an integral part of the corporate business plan. [This is in addition to the well-documented reality that even these low minimum wages are often not paid to workers.] These low, and becoming lower, wages are usually measured in terms of reduction of costs to the factory owners and, by extension, to the corporations that place the orders. Rarely are the cost reductions of corporation also calculated in terms of loss of purchasing power by employees and the resulting lowering of the living standards possible for the employees and their families.

However, without sufficient purchasing power, workers cannot provide nutrition, sufficient potable water, health care, education, homes, etc. for themselves and their families. They are being deprived of their economic human rights. In addition, without the ability of its inhabitants to earn sufficient purchasing power, the tax base of a community cannot be established and stabilized so as to provide the social and physical infrastructure needed by communities. The community's sustainability is endangered.

In contrast, a "Sustainable Living Wage/Income" (SLW):

- provides the purchasing power necessary for the worker to meet basic needs, including food, clothing, housing, energy, transportation, healthcare and education
- provides the ability of the worker and the worker's family to participate in culturally required activities, including births and related celebrations, weddings, funerals and related activities
- allows the setting aside of small amounts of money (savings) to make possible the future purchase of items and meeting of needs. (Rosenbaum 1994, 1996, 2000)

The term "Sustainable Living Wage" has been adopted because the term "Living Wage" came to mean enough to simply be alive.

## 2.5.3 Sustainable Community Wage/Income

In considering the relationship between wages and sustainable communities, the term "Sustainable Community Wage/Income" has been used, describing:

- The wage or income, in addition to meeting basic needs and allowing workers to set aside money for future purchases, that allows for the availability of enough discretionary income to allow the workers to support the development of small businesses in a local community, including the support of cultural and civic needs of the community.
- The wage/income that allows for long range planning and participation. (Rosenbaum, 1994, 1996, 2000)

## 2.5.4 Other Descriptive Wage Levels. Wages as Legal, Ethical, Moral, or Just

In addition to the above definitions of wage levels, the following descriptive labels are offered because they have been helpful in discussions about wages, especially with corporate management.

"Legal" wage is the wage that companies can pay their workers without violating the law of each specific country where a company operates. Legal minimum wages in any country are not predicated on nutritional needs, or any other needs workers have on an on-going basis. Often,

they are based on a local or national government's perceived need to attract businesses to a country or a region within a country in order to create jobs.

"Ethical" wages are the self-defined and self-accepted wages that are standard of prevailing within an industry or business segment. In other words, what the industry says is acceptable practice becomes the accepted public standard. This is often reflected in codes of conduct in which companies state that their wages are the legal wage within a country or "the prevailing industry wage" whichever is higher. This ethical standard for workers' wages is actually based on the level of wages that keep the corporation competitive.

"Moral" wages are wages that reflect the contributions the workers make to the corporations in which they are employed. With these wages the workers are able to meet their own needs and the needs of their dependents. The moral dimension of actions pertains to the established standards of goodness and badness of behavior. It implies that the standards arise from human conscience and from an understanding of the dignity of the human being, both alone and in community.

"Just" wages are wages that are not only legal, ethical and moral, but are also determined in relation to the distribution of benefits resulting from production and sales of products and services by any corporation. The wages are seen not only as a measure of compensation for individual workers, but also as a measure of the goods and services coming into and leaving a community because of corporate activity, and contribute to the sustainability of the community. Justice also requires that stakeholders in economic operations consider the issue of the ongoing concentration of wealth throughout the world in the hands of the few within each country, and in the hands of some countries more than others. The present concentration of wealth in the hands of a few deprives the vast majority of persons the benefit of Earth's resources. The search for a just distribution is the larger dimension of the individual or community search for just wages.

In the present form of the global economic system, corporations move jobs from country to country where the legal minimum wage is ever lowered in order that the companies may be more profitable and remain competitive within their respective industries. In many instances, part of that "profit-ability" comes from the transfer of jobs without the transfer of an equal amount of purchasing power. The loss of workers' purchasing power as the jobs are moved from one group of workers in one country to another group of workers in a second country is part of what is "siphoned off" as profit by the company and shared out with shareholders of the corporation.

The legal minimum wage in a country is based on a definition of minimum as the legal minimum amount that an employer is obliged to pay. The prevailing industry wage is based upon the wages that are generally accepted as competitive wages by the management of companies within an industry. Neither the legal minimum wage nor the prevailing industry wage is designed to address the reality of the purchasing power a worker has to have in order to meet the human needs of his/her family.

When the workers' earned purchasing power is not sufficient to meet these human needs, something has to give. The family does without a decent house to live in; without nutritious food; without the kinds of clothing that symbolize a decent life; without a means of transportation. This is a violation of the *Economica*, the human rights associated with purchasing power and the resulting standard of living. The corporation and shareholder profits – in part—are created from money that in justice should be part of the wages of the workers.



The conscience of executives and shareholders is often swayed by the argument that a low paying job is better than no job. Yet this argument is basically flawed. It does not answer the question of the responsibility of the employing company to its workers. It does not deal with the issue of exploitation.

The dominant culture in any society, especially through the media, has the ability to manufacture general public acceptance that a given situation is the norm – whether that situation is in reality harmful or beneficial. Historically, the result has been that different standards are used and considered acceptable for different segments of populations. This mindset is expressed in the wage scales that are considered “acceptable” in many countries where the effects of the globalization of the economy can be seen. Because some people and/or communities have been economically poor historically, somehow it has unfortunately become “acceptable” that they remain poor, even when their labor is the groundwork of this globalized economy. (One major effort to raise these issues is the three-part series of the World Bank, *Voices of the Poor*. 2002)

### 2.5.5. Wages and Purchasing Power

The author’s research has led to the creation of tool that measures the amount of purchasing power that the wages provide. the Purchasing Power Index (PPI). The PPI provides objective data, and can be used trans-nationally and trans-culturally and allows for comparison across time. It is based on the items needed to fulfill human needs, and the cost of those items in terms of the minutes of work (at a stated wage) required to purchase them.

With the PPI as a tool, governments, corporations, and employees are able to determine a Sustainable Living Wage/Income, and a Sustainable Community Wage/Income in any country. The PPI makes this determination possible for workers in any country, using any currency. It is to the credit of some corporations that they have already sponsored PPI studies in the areas in which they operate.

When workers’ earned purchasing power is not sufficient to meet their human needs, something has to give. The family does without a decent house to live in; without nutritious food; without the kinds of clothing that symbolize a decent life; without a means of transportation. The corporation and shareholder profits are created in part from money that in justice should be part of the wages of the workers. This is a violation of the *Economica*, the human rights associated with purchasing power and the workers’ standard of living.

APPLYING THE PURCHASING POWER INDEX (PPI)			
The Cost of a kilo of rice in minPP (minutes of purchasing power or work at local minimum wage required for purchase)			
Comparison over time in Matamoros, Mexico		Comparison between Countries	
Cost of 1 kilo of rice pro-rated to cost per week at the local minimum wage for each year cited.		Cost of 1 kilo of rice pro-rated to Cost per Week at the minimum wage in each country	
1994	34 minPP	Jakarta, Indonesia (1996)	98 minPP
1998	38 minPP	Matamoros, Mexico (1996)	35 minPP
2000	67 minPP	Port-au-Prince, Haiti (1996)	106 minPP
2002	76 minPP		

The globalization of the economy has drastically weakened the bond between corporations and the local and national communities in which they operate and the legal controls those communities had over the actions of the corporations. As production and assembly has moved from countries where standards, legal codes and strong enforcement exist, to other countries, differences are readily apparent.

- The standards to which factories are held by the society and its government vary from country to country. In fact, these standards are often much lower than those in the “home” countries of the corporations placing the orders in the factories.
- 2. The legal systems for the enforcement of standards range from non-existent to minimal at best. The legal channels for addressing poor standards or violation of standards either do not exist ...or the workers are in danger if they express concerns or raise issues.

### 3.2 Locus of Responsibility for Abusive Situations in Vendor Facilities

For at least the past decade, if not longer, a steady stream of media reports has exposed the harsh realities within factories to consumers, investors, as well as to labor rights and human rights organizations. Different countries and the problems within factories in those countries rise to public consciousness as a result of media focus and then as the months pass, other countries have taken their place.

One of the mistakes within the varied responses to these exposes and reports has been to see the problems as isolated, the exception to the norm, etc. The responses have focused on a particular factory, a particular situation. Heroic work has been done by coalitions of concerned organizations to bring about change in a particular factory.... while the other factories in the same trade zone or province or country continue with similar patterns of behavior.

However, in many industries, the factories of production or assembly are usually not owned by the corporations or the brand names with which we are all so familiar. They are contractors or vendors for the corporations. This lack of corporation ownership makes the power issue even more important. Yet, the focus of the media most often has been on the corporations placing orders within the factory.

### 3.3 Development of Corporate Codes of Conduct for Owned and Vendor Facilities

In response, corporation after corporation has produced a standard for the work place, the factory; hence the Codes of Conduct as we know them today. Although called by many names, these codes were set forth as the standard for the factory or, another way to say it would be, the “rules” for performance in the factory. Corporate and Industry “Codes of Conduct” have proliferated in response to the increased consumer and shareholder concern over media revelations of scandalous action in the facilities of corporation sub-contractors or suppliers.

When this plays out within the production system, a common phenomenon occurs in almost any factory which accepts orders from numerous corporations. The factory has a display wall with the various codes of conduct for these corporations framed and available for anyone who wants to take the time to read them. In theory, at least, these are the standards within which products are produced within the factory.

Codes of Conduct on bulletin board  
at Guatemalan Assembly Plant.  
Photos by Rosenbaum, 2002.

Careful examination of the various codes quickly exposes one of the major flaws of the role of codes of conduct in a production factory. The codes from the various corporations are not the same. So what is the standard to which the factory must adhere? Is it the common denominator or the higher standard or a combination thereof? Is it one standard one day and another standard another day depending on the product being produced and/or the corporation for which the product is being produced and/or the particular inspection, monitoring, certification team that is coming? How is the management of the factory to know, much less the workers.

Institutional shareholders (including faith based organizations, pension funds, investment managers and the organizations) along with other non-governmental organizations such as the Ethical Trading Initiative in Europe, and Oxfam International have persistently brought their concerns to corporations, and in some cases, have worked collaboratively to assist in the development of methods to deal with the problems arising from the contract-supplier system in the global economy.

In 2000, the Global Compact was launched as a network of corporations with an office at the United Nations. Over a thousand corporations have signed on to the Compact, agreeing to adopt its nine principles of corporate behavior, prepare annual reports on them, and share “best practices.” However, the voluntary nature of adherence to the principles and the lack of a verification system continue to weaken the possible effect of the Compact.

### 3.4 Monitoring Compliance with Codes of Conduct

The monitoring and reporting of compliance with codes of conduct have resulted in new structures (internal compliance systems) within corporations, and also led to the development of organizations such as the Fair Labor Association and the Workers Rights Consortium, specifically established to monitor corporations on their adherence to codes of conduct. Organizations such as the Fair Labor Association and various certifying organizations such as ISO, Intertek, and Verite have been specifically established to monitor and accredit corporations on their adherence to codes of conduct. Many accounting firms have been hired by corporations to handle the monitoring of their facilities and their vendor facilities.

In addition, independent monitoring organizations with members from the religious, labor rights and human rights sectors in developing countries have developed ways of ensuring that workers voices can be heard. GMIES in El Salvador ([www.gmies.org.sv](http://www.gmies.org.sv)) and COVERCO in Guatemala ([www.coverco.org](http://www.coverco.org)) are among the first of the groups established for this purpose. Others include EMIH in Honduras and PASR in Nicaragua. These groups have joined with other NGOs in Central America to form the Regional Initiative for Social Responsibility and Work with Dignity (IRSTD.)

### 3.4 Responsibility for Corporation and Supply Chain Standards and Compliance Mechanism Placed outside the Governing System of the Host Society

It is very important to pay attention to what has taken place with this development. Corporations are now expected to bear ultimate responsibility for the conditions under which their products are manufactured or assembled. They are expected to be the creators of the standards for the factories and the enforcers of those standards. Whose standard is it really? It does not matter which code of conduct we are using, it is still not the rule of law and governance of the community or country in which production is taking place. In fact, in many instances, the codes of conduct are higher than the legal standards within the country of production.

When codes of conduct are seen as something imposed from the outside rather than a standard of behavior that is adopted from within the society, for the benefit of all involved, it depends on an external enforcement system for adherence. Hence we have the various systems of monitoring, inspection, certification, etc. that have developed as means and method of enforcing the codes. Again with most of the monitoring, inspection and certification, the power of enforcement comes from the outside: outside the community and often, outside the country of production.

In countries with strong labor and environmental laws that recognize the rights of workers, including standards related to occupational health and safety, working hours, right to organize and engage in collective bargaining, etc., it is society as a whole that has established those standards. The standards themselves are expressed through the society's legal codes and enforcement systems. These give evidence that the societies hold themselves individually and collectively accountable for upholding the standards that they have devised. The standards include, of course, those standards to which corporations are held. The function of corporate codes of conduct as they operate in any specific country needs to be placed within this larger context of standards and enforcement systems throughout the globalized world.

### 3.6 The Locus of Power

#### 3.6.1 The Corporation as it relates to the Local Community

The underlying question within all of this is the following: *Where does the power exist to bring about change within the factories as individual factories and within the supply chain components within any country?*

Three central issues must be considered when examining the present system of corporate codes of conduct and external monitoring within the globalized economy.

- What changes for the workers? Although a simple question, the development of a working situation that respects the human rights of the workers should be the reason for the codes. It is critical to see these codes and the situations they address not as an abstract exercise but rather as the day-to-day reality for workers in any country where the assembly plant system works worldwide.
- Where do the money and the power attached to the money accumulate as a result of all the inspecting, certifying, monitoring, etc.? If the goal is a system of compliance to adequate standards that can be sustained over time, there needs to be the transfer of sufficient funding and the associated power to the communities where the factories are

located. The funding needs to remain within the community to support a sustainable economic system where appropriate governance can develop and function.

How is power of enforcement transferred back to civil society and other components of the society? If all the inspecting, certifying, monitoring, enforcing continues to have to come outside the community, it will continue to be a system of putting out fires, of presuming that if a small percentage of factories are in compliance with the code or standards, that they all are.

### 3.6.2 Developing Global Norms for Corporations

- The United Nations itself has struggled to deal with the scope and power of transnational corporations, although it continues to be in a vulnerable position because of its financial dependence upon the national governments of countries where these same corporations wield political power.
  - In 1977 the UN Centre on Transnational Corporations was created, and worked to find ways to address this contemporary situation. However, in 1993 the Centre was transformed and it became the Commission on International Investment and Transnational Corporations. Its purpose was changed to focus on creating an “enabling environment for private sector and enterprise development.”  
([un.org/documents/ecosoc/res/1994/eres1994-1.htm](http://un.org/documents/ecosoc/res/1994/eres1994-1.htm))
  - In 1977 also, the Governing Body of the International Labor Organization, an agency of the United Nations, adopted the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. These principles have been meant to guide governments, employers’ and workers’ organizations and the multinational enterprises in developing social policies based on the Conventions and Recommendations of the ILO.
  - In 2000, the Global Compact was launched as a network of corporations with an office at the United Nations. Over a thousand corporations have signed on to the Compact, agreeing to adopt its nine principles, prepare annual reports on them, and share “best practices.” However, the voluntary nature of adherence to the principles and the lack of a verification system has weakened the credibility of the Compact.
- In 2002, the World Summit on Sustainable Development, in its Plan of Implementation #17 called for action to “Enhance corporate environmental and social responsibility and accountability” and to “Encourage industry to improve social and environmental performance through voluntary initiatives, including environmental management systems, codes of conduct, certification and public reporting on environmental and social issues, taking into account such initiatives as the International Organization for Standardization (ISO) standards and Global Reporting Initiative guidelines on sustainability reporting. The WSSD stopped short of calling for enforceable global standards for corporate social responsibility.
- In 2002, the UN Commission on Human Rights accepted the report of its Sub-Commission on the Promotion and Protection of Human Rights, *Relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation*. This report deals with the legal foundations for the right to drinking water and the right to sanitation. The report states: “The human rights to sanitation and to drinking water are specifically recognized in international law and in regional law...This recognition in the form of a nonbonding

principle should gradually evolve towards enforceability in the courts, ensuring that the right is enjoyed in practice.”

- In 2003 the UN Commission on Human Rights approved the publication of the “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights” and urged that these norms receive widespread attention. This effort of the U.N. Commission is another significant step toward the establishment of a legal foundation for global norms for transnational corporations in regard to human rights.
- In 2004, under the auspices of the ILO and the UN Development Program, the World Commission on the Social Dimensions of Globalization released its report, *A Fair Globalization: Creating Opportunities for All* and called for reform at the global level and respect for core labor standards in the global production systems.
- In addition to the efforts of the United Nations, the Organization for Economic Co-operation and Development developed and released its revised *Guidelines for Multi-National Enterprises 2000*.

#### 4. Expanding the Concept of Sustainability as Related to Corporate Social Responsibility

##### 4.1 The Concepts: Eco-Systems and Econo-systems

It is possible to examine the environmental and economic effects of corporations’ practices and policies within a conceptual framework that uses the concept “Econo-system” as a parallel to “Eco-systems.” The “Econo-system” is the network of financial, educational, political and military and social systems that work together to create what has become a global economic system, globalization. The present form of this global system is characterized by the increasing concentration of wealth and power in the possession of corporations and individuals around the world.

##### 4.2 The Eco-system and Corporations

Human population growth, increasing urbanization, technological growth and the demands of consumers and investors have led to scientific and technological developments that have taken a significant toll upon the planet’s eco-system. Within this larger scenario, the actions and policies of corporations have played a very important part in the damage inflicted upon the eco-system. Water, land and air pollution have resulted from extractive industries such as coal, uranium, gold, and diamond mining, from agricultural chemical use and factory farming, from weapons production, from vehicular exhaust gases, from unsustainable logging and paper production, from diversion of scarce water resources to commercial uses.

Human communities have been displaced. Extinction of species has taken and continues to take occur at an unprecedented rate, disturbing the ecological balance in nature. The introduction of genetically modified organisms and the patenting of life forms offer extraordinary and unknown challenges to eco-systems.

Short-term policies of both governments and corporations have frequently ignored detrimental long-term effects. In addition, trade agreements such as the North American Free Trade Agreement and the proposed Free Trade Agreement of the Americas, provide a legal basis for corporations to bring suit against countries if the panels established by the agreements decide

that a local community's regulations interfere with their exercise of free trade. In the World Trade Organization structures, countries can bring cases to the WTO Dispute Resolution Body if they believe that certain requirements, including environmental protection requirements, constitute non-tariff barriers to free trade. If the Dispute Resolution Body finds that the requirements are a barrier, the country has to change them or face financial sanctions.

#### 4.2.1 The Water Crisis and Transnational Corporations

The water crisis facing the world presents an important illustration of the role of transnational corporations in both the eco-system and human societies. By 2025 two-thirds of the world's population will live in "water-stressed" circumstances, according to the U.N. Environment Program's International Environmental Technology Center. Local communities, national governments and international bodies are studying the issues involved in meeting this crisis and the steps to be taken. Agenda 21 of the 1992 Rio Conference articulated a measured and thorough approach of the water crisis in its Chapter 18. The Millennium Goals call for reducing by half the proportion of people without sustainable access to safe drinking water.

The Dublin Principles of 1992 articulated four guiding principles that call for (1) an effective management of water as a finite and vulnerable resource essential to sustain life, (2) decision-making at the lowest appropriate level with full public consultation and involvement; (3) women's participation as pivotal; and (4) recognition of water as having an economic value and being an economic good, stating that past failure to recognize the economic value of water led to wasteful and environmentally damaging use of water. It is the fourth principle that has gained the most attention, including the report of Michael Camdessus: *Financing Water for All*.

#### 4.2.2 Full-Cost Recovery of Water and Transnational Corporations

The most far-reaching concept that has emerged from the focus on water as an economic commodity is that of full cost recovery, including in the price of water the infrastructure and management costs required for its delivery. Major transnational corporations have recognized the huge potential for profit from the management and/or ownership of water resources. Contracting with private companies for management and maintenance - in some cases ownership - of water resources has expanded dramatically. Control over these resources is increasingly concentrated in a small group of major transnational corporations:

Parent Company	Principal Wholly Subsidiaries
Vivendi	Vivendi Environment (formerly Generale des Eaux) Water Division
Suez	ONDEO (was Lyonnaise Des Eaux)
RWE	Thames Water (includes subsidiaries)
Bouyges	SAUR
AWG	Anglian Water
Kelda	Yorkshire Water

At the 2002 World Summit on Sustainable Development the United Nations Secretary General publicly embraced Public-Private Partnerships to address the water crisis. The World Bank in

2003 published its Water Resources Sector Strategy that encourages and supports private sector investment. World Bank loans have increasingly required as a condition for water loans the consideration of water privatization. (World Bank Water Resources Sector Strategy, 2003)

Control over water resources by the local communities is being compromised in this search for solutions to the world water crisis. The issue of water affects both the eco-system and the econo-system, and the sustainability of the environment and human communities. The UN declaration that water is a human right is an extremely important step in protecting the rights of individuals and communities. The world's challenge is to address the water crisis in a way that engages the technological expertise of corporations and at the same time protects the human right to water.

#### 4.2.3 Water and Local Communities

Access to water continues to be a major problem throughout the world. Water needs to be accessible in two formats: potable water for consumption and non-potable water that is used for all forms of cleaning and sanitation. Corporate activity affects the accessibility of water in several ways. First, there is the consumption of water by the production factories, resulting in less water available for the community. Second, the pollution of water often makes available water unusable. Third, the cost of water, especially potable water, is beyond the range of affordability when wages and income continue to be inadequate in many communities throughout the world.

#### 4.3 The Econo-system and Corporations

Understanding of the Econo-systems can be built on the foundational understanding of the Eco-systems. The earth is a closed system; therefore what we have is what there is to be used. The development of new materials requires new cycles: new cycles for the products, for the wastes and for production. The question is how these new cycles would fit into the established, functional cycles of the earth's Eco-system.

The Econo-system requires the addition of power as a constitutive dimension of any cycle. Power can be seen from three perspectives: power as energy, power as money and, finally, power as voice. Each of these components illustrates the ability of a production cycle, a distribution cycle or a consumption cycle to impact not only the members of the community where the cycle is operative but, because of worldwide production and consumption, the members of communities scattered throughout the globe.

The Econo-system requires governance. Unlike the eco-systems governed by the laws of nature, the Econo-systems are human constructs and therefore require governance on all levels as well as participation in that governance by all components of society. These components include civil society, government and trans-governmental organizations as well as the corporations, one of the prime actors in the formation of Econo-systems throughout the world. The question is how to ensure the balanced intersection of the power components of corporations and those of governance.

Another key learning of the eco-system is the need for balance and flow of movement throughout the cycle. Within the Econo-system, the need for the balanced, cyclical flow of resources must be integrated with the components of wealth and of power and voice. The challenge is to ensure the flow of voice, the flow of power and the flow of wealth throughout the



Econo-system. The concentration of any resource creates imbalance resulting in the inability of the cycle to function.

In the Econo-system, wealth and power have increasingly concentrated in the possession of corporations and individuals within countries around the world. The income gap has increased within these countries and worldwide. (Economic Commission on Latin America, 2002)

The power of wealthy transnational corporations is considerable. Through financial contributions to political campaigns and institutions, through exchange of incentives of various kinds, through the influence of their expertise in business and financial matters, and through their sophisticated legal resources, they have a powerful voice in all levels of the decision-making that affect the lives of millions of people. These levels range from the leadership of local communities to the leadership of organizations such as the World Trade Organization, the World Bank, and the International Monetary System.

## 5. The Systemic Nature of Corporate Social Responsibility

Systems are complex, and the examination of the intricacies of Corporate Social Responsibility must recognize the ways in which all people are a part of the systems.

### 5.1 Corporate Social Responsibility as a Shared Responsibility

All the individual and institutional investors who profit by the operations of corporations, including the institutions on Wall Street, are in a real way involved in the real-life human and ecological crises that the world is facing. All have a responsibility to search for genuine answers, not simply answers that will maximize profits: corporations, investors in corporations and the demands for profit maximization (including pension and retirement plans), Wall Street and its demands for short-term profits, governmental legislators, campaign finance regulators, budget determiners as they affect regulatory implementation, and finally, consumers who look for ever cheaper goods.

### 5.2 The Necessity of Collaboration

It is also essential to recognize that within the corporation are decent human beings who are themselves trying to cope with the dilemmas presented by the globalization of the economy and the environmental crises and to meet the demands of shareholders as well as Wall Street and the other financial exchanges worldwide for ever-increasing profits. Experience has shown that non-oppositional, collaborative stance is crucial to the resolution of the crises. (Gap Social Responsibility Report, 2003)

## 6. Recommendations

6.1 Start with recognition of the inherent dignity of each human being, so that workers are not seen only in terms of what they are able to produce. In discussion with companies about changes to improve working conditions, explore ways of raising the issue not only in terms of its potential for increasing the company's profitability, but also as an issue of human rights, of not using people as though they are machines or impersonal "costs."

6.2 Examine and adjust the practices and policies of corporations that create pressures on their suppliers. For example, the issue of "just in time" production with its shortening of turn

around time for orders and demands placed on factories that result in abusive situations for workers.

- 6.3 Develop ways of calculating costs that corporations are now externalized, for example, costs of environmental remediation, for health care costs if decent, healthy food and potable water are not available, or diseases are spread through polluted water or polluted air. Require that these costs be internalized within the total cost of production.
- 6.4 Analyze and work to bring together in order to improve enforceable standards for workers:
  - laws related to labor, including occupational health and safety, wages, overtime, the right to organize, and systematic ways of addressing these;
  - International Labor Organization (ILO) standards relating to occupation health and safety, work hours,
  - codes of conduct and their enforcement systems.
- 6.5 Develop ways to make it beneficial for factory managers to adhere to the international and corporation labor and environmental standards. At the present time a system of rewards and punishments is used, based on the placing and withdrawal of orders to ensure compliance with the code of conduct. Explore how this reason for compliance can be moved to a standard that is beneficial for all factory managers to adhere to. Advance the notion that adherence to codes is the norm rather than the exception. Within a governmental system, develop ways to give positive recognition to factories with standards that go beyond the legal.
- 6.6 Provide support for collaborative efforts between corporations to enhance their power to bring about change as well as to create an equal standard. Explore ways to develop a collaborative code of conduct be that would not be the lowest common denominator. Provide a neutral space for a trial of this to take place and evaluated, without the spotlight or glare of publicity so that positive change for workers and for communities can really take place.
- 6.7 Work with investors, the investment community including Wall Street and the other markets around the world to assist them to recognize that raising working condition standards is beneficial, even a requirement of doing business, even if the costs of production are higher. The continual drive to lower costs of production contributes to the violation of the standards of performance and behavior that the codes of conduct are meant to raise.
- 6.7 Support efforts to develop ways of strengthening civil society and government structures to ensure that the policies and practices of corporations contribute to the sustainable development of communities and the environment.

For more than a decade, members of the staff of the Center for Reflection, Education and Action, Inc. have worked with numerous corporations on issues of code of conduct development, reporting mechanisms, monitoring and inspections. Our organization is convinced that real change, sustained change, change that affects the lives of workers, their communities and the environment cannot and will not take place without looking at the systemic issues raised in this paper. At every level of these systems, respect for human beings and respect for the eco-systems of which we are a part has to be the basis for our decisions. This Earth is all we have. Its survival, and ours, depends on how well we manage it – our economics.

CREA: Center for Reflection, Education and Action, Inc  
P.O. Box 2507  
Hartford, CT 06146-2507 TEL: 860.527. 0455 [crea-inc@crea-inc.org](mailto:crea-inc@crea-inc.org) [www.crea-inc.org](http://www.crea-inc.org)

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