

# Evaluating Strategies for Negotiating Workers' Rights in Transnational Corporations: The Effects of Codes of Conduct and Global Agreements on Workplace Democracy

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**ABSTRACT.** Following the offshoring of production to developing countries by transnational corporations (TNCs), unions and non-governmental organisations (NGOs) have criticised working conditions at TNCs' offshore factories. This has led to the emergence of two different approaches to operationalising TNC responsibilities for workers' rights in developing countries: codes of conduct and global agreements. Despite the importance of this development, few studies have systematically compared the effects of these two different ways of dealing with workers' rights. This article addresses this gap by analysing how codes of conduct and global agreements both *independently* and *interactively* affect workers' rights. We do this based on a qualitative study of the Sri Lankan operations of a Swedish TNC in Sri Lanka, and on interviews with union and NGO representatives actively involved in codes of conduct and global agreements. Our results indicate that global agreements *independently* address all the aspects included in codes of conduct, while also addressing additional, more process-oriented aspects of workers' rights. Hence, on their own, global agreements seem to comprise the

superior approach to promoting workers' rights. Furthermore, our results indicate that promoting codes of conduct has negative *interactive* effects on global agreements. Based on these results, we argue that the current focus on codes of conduct is counterproductive for the promotion of workers' rights.

**KEY WORDS:** code of conduct, corporate responsibility, global agreement, international framework agreement, labour practice, non-governmental organisation, transnational corporation, union, workplace democracy

## Introduction

The increasing influence of transnational corporations (TNCs) has brought new challenges regarding their responsibilities and actions with respect to workers and their rights (Arthaud-Day, 2005; Broadhurst, 2000; Murray and Trudeau, 2004). In pursuit of lower costs, TNCs have used offshoring to allocate production and other parts of their value chains to developing countries where labour costs are significantly lower than in most developed countries (Christerson and Appelbaum, 1995; Hathcote and Nam, 1999; Jones, 2005; Taylor, 2005). Along with these lower wages come generally poorer working conditions as well (Chan, 1998, 2000; Chan and Senser, 1997; Lee, 1998, 1999), and a common position is that this development is leading to a 'race to the bottom' in terms of workers' rights (Chan and Ross, 2003; Valor, 2005).

To counteract this development, unions and other non-governmental organisations (NGOs)

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have sharply criticised the working conditions at the offshore factories of TNCs and their suppliers (Frenkel, 2001; Frenkel and Kim, 2004; Roberts, 2003; van Tulder and Kolk, 2001). This has resulted in enlarged definitions of TNC responsibility for workers' rights, particularly as unions and NGOs have collaborated in their efforts to broaden these responsibilities (Connor, 2004; Egels-Zandén and Hyllman, 2006; Gallin, 2000; Hale, 2004). Such collaboration has been made difficult by the fact that NGOs and unions have operationalised their workers' rights efforts in two different ways, codes of conduct and global agreements, respectively. While codes of conduct and global agreements share the same objective, i.e. to increase the responsibility of TNCs for workers' rights (cf. Braun and Gearhart, 2004; Compa, 2004; Roman, 2004), codes of conduct are preferred by TNCs and NGOs while unions prefer global agreements (Compa, 2004; Connor, 2004; Gallin, 2000). Numerous TNCs have adopted codes of conduct (e.g. Guillén et al., 2002; Nijhof et al., 2003; Schlegelmilch and Houston, 1989; Sethi, 1999), whereas only a handful have adopted global agreements (Hammer, 2004; Riisgaard, 2005).

While codes of conduct and global agreements have both been studied, few, if any, studies have systematically *compared* their respective effects on workers' rights (cf. Egels-Zandén and Hyllman, 2006). Similarly, few studies have focused on the interaction between these two approaches. This lack likely stems from the prevalent lack of a union perspective in the business ethics literature (Leahy, 2001; Michalos, 1997; Riisgaard, 2005), as well as the similar lack of an NGO perspective in the industrial relations literature.

This article addresses this gap by analysing how codes of conduct and global agreements *independently* as well as *interactively* affect workers' rights at the local level. This analysis is based on both a qualitative study of the Sri Lankan operations of a Swedish TNC (Trelleborg) and interviews with union and NGO representatives actively involved in codes of conduct and global agreements. The next section reviews previous research into codes of conduct and global agreements, and identifies the main differences between them. Then, we outline how workers' rights could productively be operationalised as 'workplace democracy', and

present the method used in the study. We next present our case findings, and based on these, discuss our results and present some initial propositions regarding the effects of codes of conduct and global agreements on workplace democracy. In the final section of the article, we summarise our conclusions, discuss their practical implications, and suggest avenues for further research.

### Codes of conduct and global agreements

Paralleling the corporate interest in codes of conduct considerable research into such codes has emerged. Themes in previous research include: (i) degree of corporate adoption of codes (e.g. Guillén et al., 2002; Nijhof et al., 2003; Schlegelmilch and Houston, 1989; White and Montgomery, 1980), (ii) content of codes from a normative perspective (e.g. Murphy, 1995; Schwartz, 2002; Sethi, 2002; Sethi and Williams, 2000), (iii) content of codes from a descriptive perspective (e.g. Emmelhainz and Adams, 1999; Kaptein, 2004; Kathryn and Miyake, 2001; Kolk and van Tulder, 2002a, b; Montoya and Richard, 1994; van Tulder and Kolk, 2001; Carasco and Singh, 2003), (iv) drivers of the adoption of codes (e.g. Bondy et al., 2004; Diller, 1999; Roberts, 2003; van Tulder and Kolk, 2001; Weaver, 1993) and (v) changes induced by codes (e.g. Cassell et al., 1997; Cowton and Thompson, 2000; Healy and Iles, 2002; Somers, 2001). Based on the findings of previous research into codes of conduct in relation to developing countries, it seems that academics and practitioners *envision* such codes as securing individual workers' rights, as primarily defined by the ILO Declaration on Fundamental Principles and Rights at Work and the UN Universal Declaration of Human Rights. However, despite this extensive research into codes of conduct, the research into the *actual implementation* of codes of conduct in developing countries is fairly limited (for notable exceptions see Egels-Zandén, 2007; Frenkel, 2001; Graafland, 2002; Winstanley et al., 2002). Hence, much is known of codes of conduct in general, but little is known of how codes in practice affect workers' rights in developing countries.

While research into codes of conduct has flourished, research into global agreements has lagged (Riisgaard, 2005), likely due to the novelty of global

agreements. However, several recent studies have addressed this lack (Anner et al., 2006; Carley, 2005; Fairbrother and Hammer, 2005; Riisgaard, 2005; Wills, 2002), and the major thrust of this research has been to analyse the *content* of global agreements. The general conclusion has been that global agreements secure commitment on the part of TNCs to respect workers' rights (Wills, 2002), and typically include standards following ILO, OECD and UN Global Compact guidelines (Carley, 2005; Fairbrother and Hammer, 2005; Riisgaard, 2005). Additionally, previous research indicates that global agreements are not necessarily restricted to the signatory company, but can stipulate that suppliers must also comply. Carley (2005) also demonstrates that global agreements, unlike codes of conduct, usually include procedures whereby the signatories jointly monitor and discuss implementation, and that this joint monitoring as well as union involvement in implementation are often presented as key features of global agreements (Fairbrother and Hammer, 2005; Hammer, 2004). Based on these studies, it appears that global agreements are *envisioned* as securing basic rights for individual workers, much as codes of conduct are, while providing additional rules concerning both monitoring and union involvement. However, hardly any studies have examined the *actual implementation* of global agreements by TNCs; notable exceptions to this neglect include Wills (2002) and Riisgaard (2005).

Arguments for and against codes of conduct and global agreements have been presented in previous research. An argument in favour of codes of conduct is that they can accommodate a lack of local unions in some regions where TNCs operate (Ählström and Egels-Zandén, 2007), especially in so-called free trade zones (FTZs). Hence, it is claimed that global agreements are impossible in certain regions due to the low level of unionisation. Furthermore, codes of conduct are also presented as a first step towards unionisation, as most codes include a clause allowing and supporting employees to organise themselves in local unions (e.g. Braun and Gearhart, 2004; Frenkel and Kim, 2004). On the other hand, researchers have also argued that global agreements, unlike codes of conduct, provide a legal way to enforce, rather than simply advocate, TNC responsibility for workers' rights (Braun and Gearhart, 2004; Eade, 2004; Riisgaard, 2005). Similarly, codes of conduct

are criticised by unions for not providing as strong monitoring mechanisms as unions and global agreements can (e.g. Braun and Gearhart, 2004; Frundt, 2004). Essentially, codes of conduct are regarded by some, notably many trade unionists, as little more than convenient public relations tools for TNCs, enabling them to avoid negotiating with unions over workers' rights (e.g. Frundt, 2004). However, beyond such anecdotal arguments, there have been no systematic comparisons of the benefits and drawbacks of codes of conduct versus global agreements, when implemented independently as well as in combination. The present paper addresses this lack by making such a comparison.

### **Defining workers' rights as 'workplace democracy'**

A first step in analysing the effects of codes of conduct and global agreements on 'workers' rights' is to develop an operational definition of these rights. Previous research into 'workers' rights' in the corporate responsibility literature has used either fairly vague definitions of 'workers' rights' or definitions based on the well-known ILO and UN conventions (e.g. Frenkel, 2001; O'Rourke, 2003; van Tulder and Kolk, 2001). Instead of adopting such definitions, we believe that a promising and more theoretically anchored complementary definition of 'workers' rights' can be formulated by referring to the literature on 'workplace democracy'. So far, research into workplace democracy has not been integrated into the corporate responsibility literature, likely because of the lack of a union perspective in this literature (cf. Egels-Zandén and Hyllman, 2006; Leahy, 2001; Michalos, 1997; Riisgaard, 2005).

A central objective of workers and union officials, second only to their wish for economic and social security, has been to extend into the economic sphere democratic principles similar to those that form the foundation of the political sphere in Western democracies (Derber, 1970). The concept of industrial or workplace democracy nonetheless largely means different things to different people and groups (Schurman and Eaton, 1996). However, one common feature often perceived to be synonymous with workplace democracy is union representation

(e.g. Blum, 1953), although union representation was found in the 1960s to be a necessary but insufficient condition for effectively addressing issues such as growing alienation at work (Schurman and Eaton, 1996). As the social and political developments of the 1960s spawned a resurgence of various forms of workplace democracy in the 1970s, Derber (1970) proposed a model containing nine principles for defining workplace democracy geared towards an American context.<sup>1</sup> This pioneering work was subsequently extended by other workplace democracy theorists (e.g. Bernstein, 1976; Greenberg, 1975; Thorsrud, 1977; Walker, 1974), who examined empirical evidence relating to new forms of worker participation in the United States and especially in Sweden and Norway. Based on this evidence, new alternate models of workplace democracy were proposed (e.g. Herbst, 1976; Hunnius et al., 1973; Pateman, 1970; Tannenbaum et al., 1974; Witte, 1980; Zwerdling, 1978). More recently, the concept of workplace democracy has been geared towards ideas of labour-management co-operation or employee involvement (e.g. Bluestone and Bluestone, 1992; Cohen-Rosenthal and Burton, 1987; Cooke, 1991; Eaton, 1990; Simmons and Mares, 1983).

In attempting to synthesise these previous findings and models of workplace democracy, we will take as our starting point a modification of Schurman and

Eaton's (1996) six-component framework of a democratic workplace, a modification based primarily on Derber (1970) and Bernstein (1976, 1980). Briefly outlined in Table I, the framework consists of six components of workplace democracy: (i) shared sovereignty over all levels of decision making, (ii) opportunities for direct and indirect participation in decision making, (iii) access to complete information and education necessary for responsible decision making, (iv) guaranteed equal rights for individuals and respect for individual dignity, (v) the right to at least minimum economic, health and safety, and environmental standards and (vi) the right to a fair share of the surplus value created by one's work.

This framework is useful in at least two ways when analysing the effect of codes of conduct and global agreements on workers' rights. First, it synthesises the extensive previous research into workplace democracy into a concrete operational definition. Second, it distinguishes between the components of workplace democracy related to negotiation *processes* (components one to three), and those related to negotiation *outcome* (components four to six). This distinction illustrates how the process and outcome dimensions are separate while still both being part of workplace democracy. Given these advantages, we propose that the definition outlined above provides a useful theoretically

TABLE I  
Six components of workplace democracy

Component	Description
(1) Shared sovereignty	The formal right to co-determine the nature and outcomes of decisions, i.e. bilaterally or multilaterally shared decision-making power.
(2) Participation	The right of employees to exercise their sovereignty both directly and through representation of their own choosing. This requires organised interest groups.
(3) Access to information and education	The access to managerial-level knowledge and information about the corporation, as well as opportunities to learn new skills that will enable employees to make use of this information.
(4) Guaranteed individual rights	The existence of individual rights such as freedom of speech and assembly, freedom from discrimination, petition of grievances and due process, and election of representatives immune from discharge.
(5) Minimum standards	The level of material wellbeing necessary for economic and social security and independence. This includes protection from the arbitrary use of authority.
(6) Right to "fair share of value"	The right of employees to claim a part of the surplus value created by their work, comparable to the claim made by the firm's owners.

anchored operational definition of 'workers' rights' applicable in both industrial relations and corporate responsibility research.

## Method

In analysing how codes of conduct and global agreements independently and interactively affect workplace democracy, we used material gathered both from interviews (with union and NGO representatives involved in codes of conduct and global agreements) and a qualitative study (of the operations of the Swedish TNC Trelleborg in free trade zones in Sri Lanka). The interviews with union and NGO representatives are used at a general level in discussing the *independent* and *interactive* effects of codes of conduct and global agreements on workplace democracy. We draw on the study of Trelleborg's operations in illustrating the *independent* effects of codes of conduct on workplace democracy, as well as in discussing the *interactive* effects of codes of conduct and global agreements. Regarding these interactive effects, the Trelleborg study is cited in discussing the process of local union formation in TNCs with a code of conduct, i.e. to determine whether codes of conduct support (positive interactive effects) or counteract (negative interactive effect) the signing of global agreements and the formation of local unions (a pre-requisite for signing global agreements).

In 2005 and 2006, 12 representatives from Swedish unions (six representatives) and NGOs (six representatives) actively involved in codes of conduct and global agreements were interviewed using semi-structured interviews (lasting on average an hour). The representatives all came from different organisations and were each responsible for these issues in their organisations. The representatives were chosen after having been identified as the most influential Swedish unions and NGOs involved in workers' rights in developing countries. We started with several representatives whom we identified, based on prior research, as highly influential in workers' rights; we then asked them after the completion of the interview to list the organisations and individuals that they perceived to be the most influential with respect to workers' rights, codes of conduct, and/or global agreements. Once no further

individuals or organisations were identified as 'influential' by any of the interviewed representatives, we ended the interview study. The interviews focused on discussing the independent as well as interactive effects of codes of conduct and global agreements on workers' rights. The data were then coded by the two authors in order to identify themes within each interview and differences between interviews. The resulting interview descriptions were sent to most of the interviewees, and their comments on the descriptions were incorporated into the final case description.

The Trelleborg study was based on data collected from interviews and on written documentation of Trelleborg's operations in Sri Lanka (Wingborg, 2005). Forty-five semi-structured interviews (lasting on average 45 minutes) were conducted between 2004 and 2006 with representatives of: (i) Trelleborg management (representing both the firm's headquarters in Sweden and its operations in Sri Lanka), (ii) workers at Trelleborg's factories in Sri Lanka, (iii) Trelleborg's union (in Sri Lanka and Sweden) and the firm's European Workers' Council, (iv) other union representatives (from Sri Lankan unions in the free trade zones, Swedish unions and global unions), (v) Sri Lankan governmental organisations and (vi) Swedish non-governmental organisations involved in the studied process. The interviews focused on discussing Trelleborg's code of conduct, its implementation in Sri Lanka, and the formation of local unions in Trelleborg's Sri Lankan factories. The written documentation (e.g. webpages, policies, media articles, letters and e-mails between the involved actors) was used primarily to validate information obtained in interview, and few inconsistencies were found in this way. The obtained data were then coded so as to construct a description of Trelleborg's code of conduct, its perceived implementation in Sri Lanka, and the process of creating local unions at Trelleborg's factories in Sri Lanka. Regarding the process of creating a particular local union, key decision points were identified throughout the process and the involved actors' positions at each of these decision points were outlined. These descriptions were then sent to most of the interviewees for validation. All their suggested changes were then incorporated into the final case description.

## Trelleborg's operations in Sri Lanka

### *Free trade zones in Sri Lanka*

Since the mid-1970s, the number of free trade zones (FTZs) has consistently increased in Sri Lanka. FTZs are governed by special legislation, and firms investing in them are given special benefits, such as free land, low-interest loans, tax exemptions and expanded infrastructure. The Board of Investment (BOI) is the government agency responsible for operations in Sri Lankan FTZs, of which the largest are Koggala and Katunayake (which together have approximately 80 firms and 60,000 employees) and Biyagama (with approximately 50 firms and 20,000 employees).

Unlike FTZs in Bangladesh and India, there are no legal bans on unions in Sri Lanka. However, in practice, the formation of local unions has been made difficult, as the Board of Investment has not intervened to guarantee union rights, despite national regulations dictating that employees have the right to form unions and that employers are obliged to recognise them. For example, the International Confederation of Free Trade Unions has reported that union rights are rarely respected in Sri Lankan FTZs, that firms systematically try to prevent union organising, and that the right to assembly frequently is denied (ICFTU, 2004). ILO, the Clean Clothes Campaign and the Sri Lankan Labour Department, among others, have also criticised operations in Sri Lankan FTZs for violating ILO's core labour standards.

In Sri Lankan FTZs (as in FTZs elsewhere), so-called employees' councils (EC) are often used as substitutes for local unions. An EC consists of employee representatives selected by the employees under the supervision of firm management. However, according to the International Confederation of Free Trade Unions, the elections as well as the agendas of ECs are often manipulated by firm management. According to Sri Lankan regulations, ECs represent employees in collective bargaining unless a local union exists representing at least 40 per cent of the employees (in which case the union represents the employees). This EC regulation is central to regulating workers' rights in FTZs, as will be illustrated in the Trelleborg case. For a local union to represent the employees in collective bargaining, it is required that

the employer recognise the union. The employer is required to do so if at least 40 per cent of the employees are organised through the union. However, in practice, the employer can create various obstacles to recognising a particular union, as well as try to organise an EC and claim that its representatives are the legitimate employee representatives. Such actions are, according to union and NGO representatives, highly common among corporations, but should be eliminated when TNCs adopt codes of conduct banning such actions. In this way, codes of conduct could *potentially* support the formation of local unions.

### *Trelleborg in Sri Lanka*

Trelleborg is a global industrial group specialising in advanced polymer technology and active in several industries, such as the aerospace, agricultural, automotive, transportation, and oil and gas industries. With annual sales of approximately €2500 million, the group comprises approximately 22,000 employees across 40 countries. Currently, Trelleborg has two tyre production facilities in Sri Lanka that annually produce approximately half a million tyres; in 2004, these factories employed a total of 691 employees (of which 250 work in the Biyagama FTZ).

Like most TNC codes of conduct (cf. Frenkel, 2001; Graafland, 2002; Murphy and Mathew, 2001; Sethi, 2002; van Tulder and Kolk, 2001; Winstanley et al., 2002), Trelleborg's code of conduct serves to define and secure minimum workers' rights at its factories across the globe. The content of Trelleborg's code of conduct is also well in line with that of most such TNC codes, encompassing aspects such as wages, working hours, child labour and forced labour. The code also clearly states that the firm respects employees' right to be represented by unions (according to interviewed Trelleborg managers this statement is intended to be equivalent to the ILO conventions on freedom of association and right to collective bargaining).

Overall, our study of Trelleborg's operations in Sri Lanka indicates that these code of conduct standards are well implemented. Trelleborg's Sri Lankan factories seem to comply with central code of conduct requirements such as working hours, minimum wages, overtime compensation,

health and safety education, child labour, insurance and employee contracts. However, regarding one key requirement of the code of conduct – freedom of association and right to collective bargaining – implementation is less clear-cut. We will focus on this aspect in the remainder of this case description, in order to describe the *interactive* effects of codes of conduct and global agreements.

#### *The Trelleborg versus FTZ&GSEU conflict*

In the 15 months between January 2004 and March 2005, a conflict slowly built up, erupted and was resolved between Trelleborg and a number of workers who formed a local union belonging to the Free Trade Zones & General Services Employees Union (FTZ&GSEU). FTZ&GSEU is a rapidly growing, politically independent national union in Sri Lanka, currently enrolling approximately 15,000 members in and around the FTZs. FTZ&GSEU is a part of the global union, the International Textile, Garment and Leather Workers' Federation (IT-GLWF), which in turn co-operates closely with ICFTU. The conflict concerned attempts of Trelleborg's Sri Lankan employees to form a local union and get Trelleborg to recognise it. Table II presents a brief account of the important milestones of this conflict.

In the aftermath of the conflict, Trelleborg's HR manager claimed that he was pleased that the conflict could be resolved, and emphasised that the causes of the conflict were "unfortunate circumstances". He argued that there were never any intentions on the part of Trelleborg to oppose the formation of a local union, and that Trelleborg's attitude is reflected by its code of conduct. Neither does he believe that Trelleborg can draw any general conclusions from this conflict, as it was caused by unfortunate particular circumstances not part of a general pattern of union rights violations in Sri Lankan FTZs.

Prior to the Sri Lankan conflict, Trelleborg had also been involved in other conflicts with local unions, for example, in Copperhill and Hartville in the U.S.A. When asked if this could not be seen as a sign of anti-union sentiments in Trelleborg, the HR manager again responded that this was not the case and that Trelleborg's code of conduct reflects the attitude of Trelleborg.

### **Independent effects of codes and global agreements**

#### *Independent effects of codes of conduct*

One commonly cited advantage of codes of conduct over global agreements is that codes are useful in countries with weak unions or a low union presence (cf. Ählström and Egels-Zandén, 2007). The Trelleborg case supports this view, as prior to 2004, there were limited possibilities for Trelleborg to enter into global agreements, due to the lack of unionisation in their Sri Lankan factories. In general, our interviews with union and NGO representatives also support this view. These interviewees, especially NGO representatives, argued that in instances of weak unions, codes of conduct could drive development towards securing basic individual rights, i.e. the fourth and fifth components of our framework of workplace democracy: guaranteed individual rights and minimum standards. Most TNC codes, like Trelleborg's code, define these basic individual rights based on the ILO Declaration on Fundamental Principles and Rights at Work, and the UN Universal Declaration of Human Rights (cf. Frenkel, 2001; Graafland, 2002; Murphy and Mathew, 2001; Sethi, 2002; van Tulder and Kolk, 2001; Winstanley et al., 2002). The question then becomes how well codes of conduct secure such basic individual rights in practice.

The Trelleborg study demonstrates that in this case the code of conduct was largely implemented at their Sri Lankan factories. Central requirements, such as salary levels, working hours, vacations, child labour and insurance, were in compliance with the code of conduct standards. This suggests a somewhat higher degree of compliance with the TNC's code of conduct than has been found by previous research into compliance with codes of conduct in developing countries (Frenkel, 2001; Frenkel and Kim, 2004; Frenkel and Scott, 2002; Graafland, 2002; Sethi, 2002; Winstanley et al., 2002). This discrepancy is likely due to differences between the types of factories studied in this and previous research. Trelleborg's Sri Lankan factories employ mainly male workers with skills that are more difficult to replace than those of the female workers employed in the consumer industries (e.g. the garment, footwear and toy industries) that have been the focus of

TABLE II  
Milestones in the Trelleborg versus FTZ&GSEU conflict

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The Trelleborg versus FTZ&GSEU conflict	
Fall 2003	Employees at Trelleborg's factory in Bigayama decide to start a local union affiliated with FTZ&GSEU.
Spring 2004	Five letters are sent by the local union to Trelleborg's management requesting that Trelleborg recognise the local union. No reply is sent to either of these letters. In the summer of 2004, FTZ&GSEU on behalf of the local union contacts ITGLWF, the Swedish Clean Clothes Campaign (SCCC), and the Swedish Industrial Workers' Union (SIWU) who all refer to Trelleborg's code of conduct stating that Trelleborg respects employees' rights to be represented by a union of their choice.
July 6th, 2004	The local union and FTZ&GSEU arrange a meeting with Trelleborg hosted by the FTZ's Commissioner of Labour. Trelleborg's legal representative declares that Trelleborg "accepts the workers' union". A letter sent by the ITGLWF in August to Trelleborg inquiring why Trelleborg still has not formally recognised the local union is not answered.
October 6th, 2004	Trelleborg's Sri Lankan personnel manager instructs a number of employees to form a new Employees' Council. The employees refuse to form a new council, citing the local union.
January 14th, 2005	In a meeting between members of the local union, the general director of FTZ&GSEU, and Trelleborg's regional manager, Trelleborg states, without offering any examples, that they will not recognise the local union since FTZ&GSEU has "through its actions closed a number of factories in Sri Lanka and forced them to move to China".
March 15th, 2005	A strike breaks out at Trelleborg's factory in Sri Lanka, triggered by a corporate decision to adjust workers' bonus wages so as to exclude temporary workers. While the workers respond that they are willing to discuss changes in future wages, they insist that the old criteria should be used for wages due. Trelleborg's management refuses and states that the "error" should be corrected immediately.
March 16th, 2005	The general director of ITGLWF sends a letter to the CEO of Trelleborg and the business area executive at Trelleborg Wheel System accusing Trelleborg of "unacceptable behaviour" in refusing to recognize the local union and threatening to close down the factory. ITGLWF also demands that the factory be immediately reopened or they will report Trelleborg to OECD for violating OECD's guidelines for multinational corporations. In Sweden, SIWU's chairman calls Trelleborg's HR manager three times citing Trelleborg's code of conduct.
March 21st, 2005	Trelleborg announces that the employees should report to the company and resume work; 18 workers are not welcome back as they, according to Trelleborg, have incited the conflict resulting in a 6-day halt in production. Coincidentally, these 18 workers are also the core of the local union, including its president, vice president and several board members. The workers refuse to return to work under these conditions. Some circumstances exist to suggest that Trelleborg was not only disturbed by the wage conflict but also wanted to obstruct the local union. For example, one of the suspended workers, a member of the local union's inner circle, was on vacation when the conflict erupted and could have had little to do with the conflict. The conflict is becoming an economic liability to Trelleborg.
March 30th, 2005	Trelleborg retreats from its position and accepts that all workers can return to work in exchange for a letter of apology from the local union for its behaviour during the conflict, on the condition that the letter will never be used in any capacity against the local union. The local union officials agree to this and consider this a victory, as they have achieved their goal of having the local union recognised while no union officials have been suspended. A year and 3 months after first contact, the local union is finally recognised by Trelleborg.

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previous research. Hence, both the salary levels (an identified problem in previous research) and the workers' bargaining power can be expected to be higher in Trelleborg's factories than in the factories previously studied. Consequently, the higher compliance levels found in this study seem reasonable considering the differences between this and previous research. However, while Trelleborg achieved generally high compliance, there were clear breaches of the code's standard regarding employees' right to freedom of association. The firm consistently for over a year obstructed the formation of the local union, despite the fact that its code of conduct includes paragraphs dealing with employees' right to form unions.

Thus, the Trelleborg case and the interviews with union and NGO representatives suggest that codes of conduct *at best* secure two of what we have labelled the *outcome* components of workplace democracy: guaranteed individual rights and minimum standards. Furthermore, it appears that the effects of codes of conduct on these outcome components, in practice, are dependent on industry and country variables. While codes of conduct aim to secure outcome components, our data suggest that they do not address any of the three *process* components of workplace democracy: shared sovereignty, participation and access to information and education. In fact, our data indicate that codes of conduct largely ignore issues of workers' influence and process-oriented aspects of workers' rights representation. One main reason for this, articulated by a number of interviewees, is that codes of conduct are unilaterally determined by TNCs: they do not presuppose the existence of a local union and are based on rule-setting rather than ongoing social dialogue. Hence, our results indicate that codes of conduct *at best* address the first two outcome components of workplace democracy (guaranteed individual rights and minimum standards), while not addressing the third output component (right to fair share of value) or the three process components (shared sovereignty, participation and access to information and education).

#### *Independent effects of global agreements*

One major finding from our interviews is that global agreements fundamentally secure the same basic

individual rights as codes of conduct do, i.e. the same *outcome* components of workplace democracy. Union and NGO representatives both claimed that global agreements, like most codes of conduct, contain all relevant ILO and UN labour standards. In particular, the interviewed NGO representatives argued that the real difference between codes of conduct and global agreements does not lie in their respective contents, but rather in the way these two solutions are monitored. These findings suggest that global agreements, like codes of conduct, if successfully implemented do ensure the fourth and fifth components of workplace democracy: guaranteed individual rights, and minimum standards.

Additionally, global agreements, unlike codes of conduct, also address the *process* components of workplace democracy. First, global agreements presuppose the existence of local unions, and the signing a global agreement per definition leads to the TNC acknowledging the local union as a legitimate counterpart. Hence, the unilateral nature of codes of conduct is replaced by a bilateral union-TNC negotiation structure. In turn, such a bilateral structure is, by many of our interviewed union and NGO representatives, claimed to be an important starting point for a development process, continuously leading to increasing degrees of worker participation and co-determination. Second, global agreements also, according to the interviewed union representatives, oftentimes include specific standards concerning union representation, information sharing and skill development, i.e. their content is broader than that of codes of conduct. Third, global agreements are also, according to our union interviewees, described as creating better working relationships between local and global unions, which is argued as strengthening local unions' bargaining power. In sum, our conducted interviews indicate that global agreements *at best* enhance the preconditions for achieving all of the three process components of workplace democracy: shared sovereignty, participation and access to information and education.

Only a few studies have analysed *actual* compliance with global agreements. The main findings of these studies are that global agreements suffer from similar implementation problems regarding wages, working hours and the right to organise as do codes of conduct (Hammer, 2004; Riisgaard, 2005). Our

interviewed NGO representatives even stated that they believe that global agreements in practice are less vigilantly monitored, and hence less successfully implemented, than codes of conduct are. While codes often are monitored by external parties, global agreements are mainly monitored by local and global unions that, according to several interviewed NGO representatives, have limited experience in such monitoring. However, the NGO representatives by no means claimed that current code of conduct monitoring is satisfactory (in fact, they often asserted the opposite), only that it tends to be more effective than current global agreement monitoring is. Several researchers would support the claim that code of conduct monitoring is deficient in several important respects (Burnett and Mahon, 2001; Egels-Zandén, 2007; Florini, 2003; French and Wokutch, 2005; O'Rourke, 1997, 2000, 2002, 2003); however, there has been too little research into global agreements to validate the claim that global agreement monitoring is even less effective. In sharp contrast to the NGO representatives' view, the union representatives, and some researchers, even claim that the global agreement monitoring conducted by unions with a local presence is *more* effective than external code of conduct monitoring (cf. Braun and Gearhart, 2004; Frundt, 2004). Hence, while both approaches suffer from monitoring and implementation problems, it is currently unclear whether either of them suffers more from such problems than the other.

#### *Comparing the independent effects of codes and agreements*

Table III summarises the conclusions of the initial analysis of the *independent* effects of codes of conduct and global agreements.

From the table, we can conclude that codes of conduct strive to secure the fourth and fifth workplace democracy components, while global agreements strive to secure the first five components. Hence, we can infer that global agreements clearly are superior for promoting workplace democracy, assuming that codes of conduct and global agreements are equally effectively implemented. The two *outcome* advantages of codes of conduct are equally secured by global agreements, while global agree-

TABLE III

A workplace democracy-based evaluation of codes of conduct and global agreements

Component	Codes of Conduct	Global agreements
(1) Shared sovereignty		X
(2) Participation		X
(3) Access to information and education		X
(4) Guaranteed individual rights	X	X
(5) Minimum standards	X	X
(6) Right to fair share of value		

ments also realise three other, *process*-oriented advantages related to union and worker participation and influence.

It is also interesting to note that neither codes of conduct nor global agreements address the sixth component of workplace democracy: fair share of value. Historically, some attempts have been made to achieve this component of workplace democracy, perhaps most notably in Sweden in the 1970s and 1980s through failed attempts to introduce the so-called wage earners' funds (e.g. Albrecht and Deutsch, 2002; Henrekson and Jakobsson, 2002).

A preliminary interpretation of this failure to address fair share of value is that both codes of conduct and global agreements fail to adequately address workplace democracy. This would signal a deficiency in the design of both the code of conduct and global agreement approaches. One reason for the deficiency may well be that unions and other workers' rights representatives lack sufficient bargaining power at an international level to enforce such demands, partly due to the lack of an international institutional framework surrounding the operations of TNCs. Hence, not including the fair share of value component of workplace democracy could be seen as a tactical decision made by unions and NGOs.

A second possible interpretation is that attempts to secure fair share of value are no longer ideologically relevant to unions and NGOs. In turn, this could be related to the shift of unions and the workers' rights movement from their historic, Marxist definition of class, class struggle and workplace democracy in favour of a more Weberian view of these concepts

(e.g. Weber, 1947). Such a shift may well have been induced or accentuated by the introduction of NGOs as workers' rights representatives. The main difference between a Marxist approach and other approaches, including the Weberian, is the relative importance given to control over the means of production and change in the capitalistic society (e.g. Korpi, 1978). According to this second interpretation, it is thus relevant to amend our suggested operationalisation of workplace democracy so as not to include the sixth component – right to fair share of value – rather than to argue for a deficit in codes and global agreements.

So far, when analysing the *independent* effects of codes of conduct and global agreements on workplace democracy, we have portrayed the solutions as being in *conflict* with each other, i.e. we chose either codes *or* global agreements. However, as several of our interviewees note, codes and global agreements could also be seen as *complementary*. Since we have shown that global agreements address all the components that codes address, there are no advantages for proponents of workplace democracy to work with codes of conduct in situations where global agreements already exist. Our interviews with union and NGO representatives also support this position. However, the interviewees, especially those representing NGOs, stress that if global agreements do not exist (and they generally do not), codes of conduct comprise a valuable tool for both improving workers' rights and supporting the formation of local unions (in turn, a pre-requisite for global agreements). Hence, codes could serve as a first step towards global agreements.

### **Interactive effects of codes of conduct and global agreements**

The second step in analysing the effects of codes of conduct and global agreements is then to identify any possible *interactive* effects of these two approaches. There are two distinct outlooks on such interactive effects: (i) *negative* and *competition* and (ii) *positive* and *complementary*. According to the first, researchers, and some of our interviewed union representatives, portray codes of conduct as detrimental to global agreements (e.g. Justice, 2003; Lipschutz, 2004; Roman, 2004). Codes are depicted

as substituting and obstructing the signing of global agreements. The second outlook, in contrast, view codes of conduct as supporting the promotion of union influence (cf. Braun and Gearhart, 2004; Connor, 2004; Frenkel and Kim, 2004; Hale, 2004). Several of our interviewed NGO representatives, and some union representatives, embraced this outlook, describing codes as a first step towards the formation of local unions.

The Trelleborg study presents a preliminary argument in favour of negative conflictual interactive effects, since it indicates that codes of conduct can be used to prevent rather than foster the formation of local unions. Before and during the studied Trelleborg conflict, Trelleborg representatives used their code of conduct as a smokescreen, citing it to 'prove' their espoused attitude favouring the recognition of local unions, while repeatedly flouting it in practice in its operations abroad. Rather, in the same unilateral spirit in which codes of conduct are adopted, Trelleborg management perceived themselves to have the right to define whether or not a specific local union should be allowed to represent the workers. Hence, Trelleborg management acted as if they, rather than the workers, had the right and power to decide who should represent the workers, i.e. the right to decide which unions and/or employees' councils were legitimate. This behaviour is similar to that of TNCs in their codes of conduct unilaterally defining the outcome components of workplace democracy – guaranteed individual rights and minimum standards – without involving, or negotiating with, local unions.

This behaviour – formalistically espousing the recognition of local unions through publicly announced codes of conduct while acting in a contrary manner – can be viewed as a clear example of a decoupling practice, whereby Trelleborg publicly claimed to do things in one way to gain legitimacy with its external stakeholders while actually maintaining the status quo in their local operations (e.g. Brunsson, 2002; Meyer and Rowan, 1977; Orton and Weick, 1990). In this way, codes of conduct potentially provide TNCs a way to improve their legitimacy regarding workers' rights, while avoiding both the signing of global agreements and actually promoting the formation of local unions. Several of the interviewed union representatives claimed that

numerous TNCs have demonstrated such behaviour, not just Trelleborg. Clearly, these findings provide support for the conflict outlook, that codes of conduct have negative interactive effects on workers' rights.

A second argument in favour of negative conflictual interactive effects is that previous research has demonstrated that the failure of unions and NGOs to collaborate on a single approach weakens their bargaining power vis-à-vis TNCs (Egels-Zandén and Hyllman, 2006). Hence, since global agreements comprise the superior alternative, efforts – mainly of NGOs – to promote codes of conduct risk having negative interactive effects on workers' rights in developing countries. Rather, according to this reasoning, NGOs and unions should collaborate on promoting the global agreement approach.

Third, while several of our interviewees identified TNCs that had used codes of conduct to gain legitimacy while maintaining the status quo regarding unions in their local operations, no interviewees could identify the opposite, i.e. a TNC that after adopting codes of conduct became increasingly supportive of the formation of local unions. As noted above, most interviewees claim that codes of conduct have led to improvements in conditions such as working hours, minimum wages and child labour, i.e. the fourth and fifth outcome components of workplace democracy. However, no concrete examples in which codes of conduct had similar positive effects on workplace democracy in terms of fostering the formation of unions could be cited by either the interviewed NGO or union representatives. Several interviewees argued for the vague notion that codes could reasonably be expected to foster the formation of local unions, but none were able to provide a single concrete example of this. Of course, this does not imply that there are no such examples, only that there are few indications of positive interactive effects in our data.

A fourth interactive effect may be observed when distinguishing between the *content* of codes of conduct and global agreements, on the one hand, and *monitoring* their implementation, on the other. While our interviewees made it clear that global agreements are superior in terms of content, they also argued that unions usually lack sufficient knowledge and resources to effectively monitor the implementation of global agreements, and maintained that NGOs

have important knowledge and resources for this purpose. As a result, a number of NGOs have decided to choose global agreements as their preferred approach, while focusing on providing monitoring services. This would be one way for the various workers' representatives to effectively pool their resources to achieve a broader definition and better implementation of workers' rights at TNCs' operations. It also suggests that while codes of conduct as such may have negative interactive effects on global agreements and local unions, this does not imply that workers' rights-oriented NGOs as such need have any negative interactive effects on workers' rights at TNCs' operations. Rather, it highlights the possible positive interactive effects of constructive co-operation between unions and NGOs (cf. Egels-Zandén and Hyllman, 2006).

In sum, both our interviews and the Trelleborg study indicate that codes of conduct have negative *interactive* effects on promoting the formation of local unions and the signing of global agreements. Hence, in contrast to the positive complementary outlook on the interactive effect, our data support the negative conflictual outlook. However, an interesting opportunity lies in the possibility of having NGOs monitor global agreements to complement union monitoring. Hence, the negative interactive effects stem from a seemingly conflictual relationship between codes of conduct and global agreements, not from a necessarily conflictual relationship between NGOs and unions.

## Conclusions

In this article, we have demonstrated that while codes of conduct are by far the dominant approach to operationalising TNC responsibility for workers' rights in developing countries, they are inferior to global agreements for promoting workers' rights. Codes of conduct narrowly focus on the *outcome* components of workplace democracy, while neglecting *process* components such as shared sovereignty, participation, and access to information and education. Global agreements, on the other hand, address all the outcome components in a similar manner as codes of conduct, while also addressing the process components of workplace democracy. Hence, global agreements

comprise a more holistic approach to promoting workers' rights than codes of conduct do. Importantly, our study also indicates that codes of conduct do *not* seem to serve as a first step to the formation of local unions and the signing of global agreements. On the contrary, our results indicate that the adoption and promotion of codes of conduct have negative conflictual interactive effects on global agreements. Consequently, we argue that proponents of workers' rights often face a choice between codes of conduct *or* global agreements, not a choice of codes of conduct *and* global agreements.

When facing this choice, proponents of workers' rights are essentially choosing between a 'quick fix' or a 'long haul'. The main advantages of codes of conduct are that they improve two of the outcome components of workplace democracy, do not presuppose the existence of local unions, and that TNCs are willing to adopt them. These advantages clearly make codes a quick and easy way to promote workers' rights in developing countries. Global agreements, on the other hand, presuppose the existence of local unions and face the hurdle of TNCs' unwillingness to sign them. However, it is also the one of the two approaches that addresses the process components of workplace democracy.

The study's most important practical implication relates to this choice of whether workers' rights advocates want to strive for a 'quick fix' or a 'long haul'. NGOs, unions and academics promoting codes of conduct as the way to operationalise TNC responsibility need to understand that such support seems to be counterproductive for the promotion of a holistic version of workers' rights. Codes represent unilaterally extended workers' rights defined by TNCs that provide limited negotiation support to help workers to increase their long-term bargaining power, and impose a definition of workers' rights in developing countries over which the workers' have little influence, i.e. those concerned are not allowed to define their own terms (cf. Åhlström and Egels-Zandén, 2007). Given this, we believe that proponents of workers' rights should stop settling for the code of conduct quick fix, and instead redirect and pool their resources to pressure TNCs to support the formation of local unions and the signing of global agreements. In addition, NGOs could provide valuable knowledge and resources to help to

improve the compliance monitoring of global agreements. Codes of conduct could still, of course, serve as important internal corporate policy documents. However, NGOs, unions and academics are well advised not to settle for these documents and should instead consistently advocate the signing of global agreements. However, in countries such as China and in some free trade zones where local unions are banned, codes of conduct will, prior to legislation changes, still comprise the only realistic way to operationalise workers' rights.

This study also has implications for further research. First, it demonstrates the need for more large-scale research into the interactive effects of codes of conduct and global agreements. If our hypothesis is correct, that codes of conduct have negative interactive effects on the formation of local unions and the signing of global agreements, this has extensive practical implications for the global workers' rights movement. Therefore, more extensive empirical studies are essential to shed light on this empirical question. Second, the study also indicates a need to examine why fair share of value has been excluded from codes of conduct and global agreements. Is this a conscious shift in policy on the part of workers' rights representatives, or simply a gradual adaptation to ongoing political trends? Third, more research is needed that compares the monitoring problems of codes of conduct and global agreements. Our study found controversy among both researchers and practitioners concerning the relative efficiency of the monitoring of these two approaches.

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### Note

<sup>1</sup> Derber's (1970) nine principles of workplace democracy are: representation, participation, equal rights and opportunities, right of dissent, due process, responsibility, minimum standards, information and personal dignity.

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