

Bettina Musiolek

Gender equality and voluntary instruments of corporate responsibility in global production networks and supply chains

INEF Research Paper Series on Human Rights, Corporate Responsibility and Sustainable Development 07/2010. Duisburg: Institute for Development and Peace, University of Duisburg-Essen.

Translation of sections 8. and 9. (Conclusion and Policy Recommendations)¹

Conclusion

Gender-specific problems in the garment, toy, electronic and agricultural sectors

As a rule, women make up the majority of the workforce in these four sectors, albeit to varying degrees. Supervisors and senior managers, on the other hand, are generally male, especially in the agricultural industry. Gender-based discrimination with respect to both hierarchy and type of work is therefore rife.

Wages are systematically and consistently low, sometimes below the absolute poverty line of USD1 per day, often below the statutory minimum wage and usually far from sufficient to provide a secure livelihood. Tasks are assigned gender-specifically, which means it is mostly women who perform low-pay, low-prestige work. As the supply chain deepens, the proportion of women workers grows.

Collective representation and collective bargaining are largely absent from these sectors. Furthermore, the degree of unionisation diminishes as we move down the supply chain. The presence of women is strongest where employment is predominantly informal, unprotected and unregulated. Informality increases with supply chain length. Formal and informal types of employment are not worlds apart; they form a continuum.

Existing working conditions pose a threat to workers' health as well as, sometimes, their lives. Sexual harassment, disparaging treatment and discriminatory recruiting practices are part of many women's everyday working experience. Women are stereotyped as 'supplementary' earners and cheap 'willing' labour.

¹ The research paper has been published in German only. The full version can be downloaded at: http://www.humanrights-business.org/files/geschlechtergerechtigkeit_und_freiwillige_instrumente_der_unternehmensverantwortung_musiolek.pdf

The most basic and acute problems with respect to gender equality are thus related to the following rights:

- 1) the right to a living wage and equal pay;
- 2) access to collective interest representation and the right to collective bargaining;
- 3) access to the labour market and the right to stable, protected employment;
- 4) access to unharmed working conditions and the right to be treated with dignity.

Gender stereotyping and the flexibilisation of the labour market form a highly effective alliance to deny women rights and benefits. Gender discrimination in its turn is an important instrument of labour flexibilisation used to enhance corporate competitiveness.

Developing potent strategies to achieve gender equality requires an understanding of the gender-specific dynamics that push women into precarious work in the four sectors and their supply chains. Any CSR instrument will remain weak as long as it does not build upon and actively promote such an understanding.

The issue of gender in industry codes of conduct and their implementation documents

For CSR instruments to be able to strengthen gender equality, clear norms and criteria must be laid down. The two main labour standards aimed at securing gender equality are those referring to a fair remuneration for both women and men (equal pay for work of equal value) and to non-discrimination in the workplace. They are stipulated in the ILO conventions C100 and C111.

Apart from adopting ILO conventions, CSR instruments also need to take heed of the set of basic problems related to gender equality identified above.

The different codes and handbooks of labour practice answer to these two requirements in very different ways, depending on the sector and the party responsible for initiating CSR. In the garment and agricultural sectors, ILO-based codes and problem-oriented handbooks are now the norm both in multi-stakeholder organisations and in corporate initiatives, although the latter tend to concentrate on the more manageable aspects of gender equality. The toy industry's ICTI-CARE and the electronic industry's EICC codes, on the other hand, still contain many loopholes and ambiguities. Again, in the garment and agricultural sectors, the codes in question seem to be largely ineffective with regard to the problem of precarious, informalised employment.

Effectiveness of voluntary CSR instruments in achieving gender equality

External impact analyses which do not mirror the interests of specific actors are rare and have so far produced only a limited amount of data. It should be on the basis of such analyses, however, that assessments are made. The present study therefore relies mainly upon the *ETI Impact Assessment* and on the Final Report of the JO-IN Turkey Project, *Codes and Compliance under Scrutiny*. Their findings apply to the agricultural and garments industry.

According to these analyses, improvements have taken place with respect to regular payment of wages, compliance with statutory working hours, payment of overtime premiums, health and safety regulations and, in a few cases, the treatment of female workers including sexual harassment.

Improvements were least common in the areas of non-discrimination and freedom of association. It has not been possible to fundamentally address the issue of gender discrimination. Among the impacts of CSR instruments, which are at any rate limited, gender equality has thus been under-represented. Many workers, male and female, also remain ignorant of the rights granted to them by the codes of labour practice.

Improvements concentrate on direct suppliers and on the more regulated and protected areas of the sectors under scrutiny. The less secure but more frequent forms of work like temporary, seasonal, contract and migrant work generally persisted, and it was here that employment conditions were found to be poorest and codes' impacts were least felt.

Positive effects of voluntary CSR instruments seem to consist mainly in the initiation of a dialogue between stakeholders and in the possibility for supplier managements as well as international buyers to learn about existing working conditions. In the long run, these effects could lay the foundations for institutionalised industrial relations and contribute to a lasting improvement of labour standards, including in such complex problem areas as gender discrimination. Multi-stakeholder organisations provide a space for such dialogue and learning processes.

Stakeholders and actors

The question of CSR instruments' effectiveness in the matter of gender equality is also a question of who is supposed to bring it about. Who should take up the cause and advance it?

The debate about corporate responsibility in times of global competition for locations has led to the creation of some interesting and innovative new initiatives and organisations with unconventional approaches to issues like gender equality.

In all four sectors, consumer and transnational labour law campaigns have been acting as triggers as well as correctives by taking a key role in publicising human rights abuses and/or workers' rights violations at the hands of manufacturers, i.e. within global supply chains. The development of sector-specific constellations of relevant actors depends strongly on these workers' rights movements, their level of mobilisation, the quality of their research and the solidary co-operation between workers and consumers.

The special role of multi-stakeholder organisations

Co-operative companies participated in the foundation of multi-stakeholder organisations as early as the late 1990s. They are of special relevance where characterised by an efficient balance of interests based on the different groups' equal representation in decision-making bodies. They differ from non-committal stakeholder meetings in that they require participants to subscribe to certain minimum standards and implementation strategies. Thanks to these requirements and to stakeholders being able to act on an equal footing, multi-stakeholder organisations can provide spaces of learning, communication and responsible action aimed at enforcing human rights for workers.

Together, traditional and new stakeholders make up and shape the industrial relations of our global era. Multi-stakeholder organisations offer environments for social partnership dialogues under the conditions of globalisation. They can inspire fruitful perspectives for the CSR discourse as well as for management action. In highly globalised sectors with little or no representation by trade unions, multi-stakeholder organisations are potentially the most effective champions of workers' rights. This holds even truer vis-à-vis such complex challenges as the quest for gender equality.

Key factors in achieving a more effective code implementation

Apart from the relatively short implementation time and the importance of the global economic environment, the following critical factors have emerged from the impact assessments mentioned above.

1) Purchasing practices – governance of supply chains

Suppliers' efforts to improve working conditions are frequently hampered by the downward pressure on prices and lead/delivery times, order changes at short notice (while production or harvest is under way) and arbitrary complaints. Voluntary CSR instruments can help enforce human rights only when they are seen as an integral part

of supply chain management across the sector. Purchasing strategies should strengthen, not impede, compliance with human and workers' rights.

The issue of integrating social standards and human rights with corporate processes remains a topic for further research. We need to ask, for example, which sort of local setting is necessary in order to translate higher purchasing prices into better working conditions.

2) Addressing the whole supply chain and tackling informal employment

So far, legislation and CSR initiatives have primarily affected the formal, regulated spheres of the economy, not the whole supply chain. To take stronger account of informality, more research and analysis of experiences from which to deduce strategies needs to be done. Another matter for further discussion and field experiments is the question of how precisely brands' and retailers' responsibilities for the whole supply chain is to be conceived. In view of the hierarchical structure of production chains, delegating large parts of companies' responsibility for social standards to suppliers does not seem advisable.

3) Human-rights- and workers'-rights-based approach

Code implementation often uses the tool of social auditing and is based on certification systems geared to compliance rather than to improving the situation of workers. Audits have widely been shown to suffer from systematic flaws and a general lack of quality. Monitoring and reviewing methods which rely on social compliance audits and certification tend to reduce workers to passive objects – in other words, to alienate those from the workers' rights discourse who should be its very protagonists. The weak effects of CSR instruments regarding freedom of association and non-discrimination, the so-called empowerment rights, are closely related to this ill-designed approach to code implementation. Against this backdrop it becomes clear that we must look for approaches enabling workers to become active and speak for themselves.

As a first consequence, multi-stakeholder organisations have taken to conducting off-site interviews to gather data about workers' opinions on their employment conditions and are also testing other tools like complaints systems and social dialogue programmes. Code implementation processes will only have an enduring effect if they help local stakeholders, and above all the workers themselves, to learn about and actively enforce their rights. It is therefore important to specifically address local organisations that focus on labour legislation. For codes to become more effective it is also essential that their implementation be turned into a more rights-based, participatory affair, all the more so in the domain of gender justice.

4) Actors' gender sensitivity

One reason why CSR instruments have so little impact on gender equality is a lack of acceptance and awareness of the issue. Actors ought therefore to be sensitised about gender-based discrimination, and CSR initiatives should collaborate with women's organisations and other relevant institutions in manufacturing countries.

5) *The political context for CSR initiatives*

Although CSR instruments have increased managements' acceptance and knowledge of workers' rights, the overall political framework remains crucial for a successful code implementation. If governments show the political commitment to protecting employees, this will in turn induce transnational contractors and local producers to respect national labour laws. Bangalore is a case in point, demonstrating how CSR initiatives can be paralysed by governmental inactivity, while at the same time driving home the fact that civil society cannot compensate for, let alone prevent, the dramatic effects that inhumane employment conditions have on workers.

Global enterprises can pull their weight, too, for governments to create an atmosphere of respect and support for workers' rights. Whereas back in the 1990s brands and retailers in the garment sector used to pressurise governments into liberalising labour legislation and protested when minimum wages were raised, the same companies are now asking governments to enforce workers' rights and to lift minimum wages. Multi-stakeholder organisations have played their part in bringing about this change.

Conclusions

A strategic orientation of CSR instruments mindful of the above factors ought to go hand in hand with a broader political strategy which is alive not only to the requirements mentioned but also to the necessity of regulatory adjustments, nationally as well as internationally, within the normative structure of human rights in the workplace. The political context turns out to be of vital importance for the applicability of voluntary CSR instruments: where governments have the political will to protect workers, voluntary CSR tools can achieve real progress.

Voluntarism arose in the absence of effective obligations yet can and must eventually lead to such obligations, though without recurring to old mechanisms but rather by bringing in new, participatory instruments.

The role of corporate codes of labour practice in bringing about change for workers can therefore only ever be limited. [...] Corporate codes provide one important tool that can contribute to the improvement of employment conditions, but are not in themselves a solution. (Barrientos/Smith 2006: 7)

CSR instruments have their limitations, then, but it is also fair so say that their potential has not yet been fully exploited. This is particularly true of complex matters like gender equality. In the four sectors in question, none of the traditional systems and social partners has succeeded in achieving gender equality so far, nor have CSR instruments got us there. Multi-stakeholder institutions, however, provide spaces of

learning where appropriate tools can be developed. These spaces are increasingly being used by new stakeholders and actors like women's rights organisations.

Policy Recommendations

Recommendations for multi-stakeholder and other code implementation organisations

For voluntary CSR implementation processes to define gender-related problems in the workplace more clearly and precisely, the following points should be guaranteed:

- CSR strategy documents (gender policy statements, equal opportunities policies) shall explain how gender equality is to be strengthened and the scope of instruments extended to encompass *all* workers in the supply chain, including those at its bottom end, i.e. homeworkers, seasonal and contract workers and the like. The strategy papers shall explicitly affirm a commitment to raise workers' gender awareness through trainings. Local women's organisations and trade unions' women's committees shall be involved in the implementation process.
- Multi-stakeholder and code implementation organisations will call upon suppliers, contractors and sub-contractors to make an in-principle commitment to pay living wages as well as to grant the right to free elections of workers' representatives.
- Multi-stakeholder and code implementation organisations will map out procedures for the integration of human and workers' rights into their members' supply chain management and procurement strategies. They will also seek to diversify their methods and tools, with social auditing relegated to a minor role. Off-site interviews with workers shall be conducted instead, and certification abandoned. The implementation of codes and labour rights shall be seen as a participatory process.
- Multi-stakeholder organisations shall support governments in their efforts to enforce workers' rights.
- Non-discrimination and freedom of association (i.e., the right to freely elect workers' collective representatives) shall be viewed as a means of *empowering* workers and thus as a way of giving them as much control as possible over their own lives and working conditions.

Additionally, the following standards and indicators of a gender-sensitive approach shall apply to all workers in the supply chain:²

- Women shall enjoy the same rights as men to join or form a trade union of their own choice. Workers' representatives shall attend to concerns which are specific-

² Important background references include the recommendations laid down in the ETI Impact Assessment (Barrientos/Smith 2006); the CCC Gender Policy Statement (CCC 2009); the IDS Manual for Value Chain Research on Home Workers in the Garment Industry (McCormick/Schmitz 2002); the SOMO Manual for Researching Multinational Corporations (SOMO 2002); and the Research Manual by Musiolek/Vassileva (2003).

ally relevant to women (such as providing childcare during meetings) and actively press for them in collective bargaining. The presence of women and men in trade unions shall reflect their proportion of the workforce. Migrants, homeworkers, contract and other informal labourers shall have a right to unionise.

- A full-time job shall be sufficient to provide a living wage without workers being forced to do overtime. Work of equal value, be it full-time or part-time, shall be remunerated at the same hourly compensation rate. There will be strategies to close the gender pay gap where work and qualification levels are of equal value. Women shall receive a fair remuneration for all their skills and aptitudes relevant for employment, including such abilities as are usually ascribed to biology and therefore often go unpaid, for example social skills or needlework. Female workers including contract, seasonal and homeworkers will have equal access to in-house or state social security schemes.
- Women shall not be required to undergo pregnancy tests as a condition of being recruited or staying employed. They shall have access to pregnancy information and welfare services, maternity leave and a maternity grant at least as high as the statutory minimum wage. After childbirth, women shall be granted maternity leave for the period provided by law or local custom, after which they shall be entitled to return to their employment. The same shall apply to part-time workers, temporary, seasonal and contract workers.
- Working hours shall allow for the needs of mothers and shall be predictable; workers shall not be forced to do overtime, particularly not at short notice. Employers will make sure that female workers can travel safely between their homes and workplaces especially during the dark hours of day.
- In plants and farms with a large female workforce, the share of female supervisors and senior managers shall reflect the proportion of women workers.
- Reliable complaints systems shall be established, and women shall have a say in their establishment.
- Female workers shall have equal access to training, qualification and promotion. Special promotion schemes shall help low-skilled workers to qualify for better-paid, upgraded jobs.
- A clear strategy against sexual violence and harassment shall be in place, and workers and managers alike will know their respective rights and duties.

Policy recommendations for the German Ministry of Economic Co-operation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung, BMZ)

At the national and transnational level:

All CSR activities of the Ministry should be carefully reviewed to assess whether they take a human-rights- and workers'-rights-based approach and whether the crucial rights of non-discrimination and freedom of association are being granted. Where private-sector CSR activities supported or mediated by the Ministry still rely on social audits and

certification, they should switch to more participatory and process-oriented methods instead.

The Ministry and its implementation agencies should therefore screen all the initiatives they currently co-operate with, some of which pursue a rather self-interested agenda and have very low standards of code implementation, notably when it comes to issues of gender equality. Corporate-led initiatives, such as BSCI and ICTI, are in special need of critical assessment, given that much more comprehensive and trustworthy approaches than theirs already exist.

By focussing on corporate initiatives rather than systematically supporting multi-stakeholder organisations, the Ministry and its implementation agencies run a risk of partiality and thus of standing in the way of new approaches, such as are already being tried out in countries like the UK or the Netherlands. When working with corporate initiatives, preference should be given to members of multi-stakeholder organisations like ETI, FLA or FWF.

The Ministry and its agencies should intensify co-operation with multi-stakeholder organisations and see to it that more of them can evolve in Germany, always minding the quality criteria specified at the beginning of this study. Most importantly, a social dialogue should be inaugurated which is aimed at achieving a real balance of interests. Participants must also endorse certain minimum standards, such as, for instance, the ones provided in the JO-IN code. By promoting such organisations, a progressive learning process will be backed which can bring to the fore new ideas about working standards and their implementation.

Much positive potential lies in the fact that the German FWF multi-stakeholder group, consisting of the metal workers' trade union IG-Metall, the German Clean Clothes Campaign (Kampagne für Saubere Kleidung) and the clothing company Hess Natur, has now attracted new members. The continuation of JO-IN, which also includes, through their multi-stakeholder organisations, individual companies based in Germany, is promising news as well. More such initiatives should be stimulated and sponsored by the Ministry.

Many people today have lost faith in their governments' ability to align their economic policies with the public good. All the more urgent it is, then, to work out political ways to shape global competition. This requires adopting a coherent line of thought and action within the Ministry as well as between government departments, so that the implementation of basic human rights in the workplace will set the standard worldwide.

At the bilateral level:

In dealing with partner countries, the Ministry should set great store by governments' ability to effectively regulate and enforce basic human rights in the workplace. This implies that not only development policies but also economic activities need to be adjusted accordingly, for example when concluding bilateral investment agreements.

At the international level:

The Ministry's role as a state actor is of eminent importance when it comes to modernising international institutions and legislation in order to close any regulatory gaps in global production chains. Government action is most called for where commercial interests dominate the control of state-sanctioned labour laws. The increasing number of private certification bodies controlling minimum working standards is a relevant case. Our study has shown certification to be the wrong tool for the control and implementation of human and workers' rights. Also, private bodies lack the legitimacy required for controlling and enforcing fundamental rights.

The fact that private certifiers have nonetheless thrived during past years points to a serious underlying problem in the context of working and social standards regulation. Organisations of a more or less credible and legitimate cast respond to it by trying to close the regulatory gap and thereby to fill a vacuum. Governments and international institutions should, however, make it a principle to seek ways of enhancing their own effective capacity to act with respect to human rights in the workplace. Ultimately, enforcing human rights and labour laws can only be the task of governments. Valuable proposals to the effect have been tabled (Deutscher Bundestag 2002).

Translated by Katrin Grünepütt

References

- Barrientos, Stephanie/Smith, Sally 2006: The ETI code of labour practice: Do workers really benefit? Report on the ETI Impact Assessment 2006. Part 1: Main findings. Brighton.
- CCC 2009: Gender Policy Statement. <http://www.cleanclothes.org/about-us/what-we-believe-in/gender-policy-statement> (18/11/2010).
- Deutscher Bundestag 2002: Schlußbericht der Enquête-Kommission Globalisierung der Weltwirtschaft. Opladen.
- JO-IN Turkey Project/Vic Thorpe 2008: Codes and Compliance under scrutiny. A final report. Istanbul.
- McCormick, Dorothy/Schmitz, Hubert 2002: IDS Manual for value chain research on homeworkers in the garment industry. Brighton.
- Musiolek, Bettina/Vassileva, Verka 2003: Investigating Women's Working Conditions along Supply Chains of Multinational Companies. Manual. The example of the garment industry in CEE/SEE and Turkey. Meißen and Sofia.
- SOMO 2002: Manual for Researching Multinational Corporations. Amsterdam.