

Ratcheting Labor Standards: How Open Competition Can Save Ethical Sourcing

The transformations of the global economy that deliver higher quality and cheaper products can also lead to unacceptable conditions of work: exploitation of child labor, dangerous environments, punishing hours, starvation wages, discrimination, and suppression of workers' rights.

Government has been slow to respond. Non-governmental organizations (NGOs) have reacted more quickly, by establishing corporate codes of conduct and auditing protocols to determine whether firms actually comply with those codes. Some multinational corporations have responded to the demands of angry and skeptical publics by volunteering to respect a code of their own or an NGO and sometimes by allowing outsiders to verify compliance.

The best of these efforts seem to yield impressive gains. But even outstanding voluntary initiatives suffer from three crucial defects.

First is the problem of credibility. Too often deceived, consumers and activists are wary of companies who promise to do good. They are warier still when companies hire auditors to publicize their good deeds. In controversies over social performance, the public has more confidence in NGOs than in corporations. But that trust is not unlimited. The public knows that NGOs are themselves self-interested institutions. Though they often speak in the public's name, they are seldom accountable to any constituency. Lucrative monitoring contracts could create conflicts of interest that transform them into "missionaries" for the new corporate "colonizers" of the global economy.

This problem of credibility is exacerbated by the proliferation of standards. Governments and firms in some developing countries are announcing codes that compete with those proposed by Northern NGOs. Even single industries become fragmented as different groups of apparel firms, for example, adopt different codes. This confusion will erode the public's trust in new ethical standards and tempt suppliers to rebel against them.

Second is the problem of ignorance. Changes in global markets outpace the ability of individual firms to respond. This is a key reason they cooperate with others in global supply chains to design and manufacture products.

Social responsibility is no different. Even the most advanced of socially responsible businesses will not always know how best to evaluate, let alone improve, the labor practices of their suppliers. This is even more true for NGOs and communities trying to protect children in impoverished families from the worst forms of child labor, or to improve environmental conditions where home life and work life take place under one roof.

Third is the problem of scope. So far, voluntary initiatives have been largely limited to those few companies whose reputations would suffer costly harm by association with rank exploitation. Unless many more companies follow-suit, programs like ethical sourcing will benefit few.

How can these ethical business initiatives reach less visible companies such as the contractors that supply unbranded goods to Wal-Marts and other high-volume retailers? How can they be extended to second or third tier contractors—the contractors of the contractors? How can they affect the new multinationals based outside OECD countries and rarely scrutinized by activists and government? What of the myriad small to microscopic firms operating at the margins of the law in the so-called informal sector, a decisive component of many developing economies and a significant hidden presence in the advanced ones?

We think that the best way to solve any of these problems is to solve all three together. We call a system designed to do just that Ratcheting Labor Standards (RLS). RLS extends ethical sourcing and other social performance efforts by making them dramatically more transparent and competitive. RLS builds on existing initiatives and uses their differences, even their conflicts, as a way of correcting their defects.

RLS starts with the commitment, however equivocal, that socially responsible firms have made to review their ethical practices through internal reports and external audits. RLS extends that commitment by requiring firms that claim good social performance spell out the particulars in some agreed format. So, if Nike wants to claim that it is treating its workers “humanely,” it must document exactly how it and its subcontractors treat them, for example, in terms of wages, hours, safety, etc. This performance could then be compared directly to other shoe and garment producers and made available to the public on the Internet.

This comparison would trigger several kinds of complementary competition. Firms would try to distinguish themselves by demonstrating their superior social practices. Monitors would try to excel at auditing. Good firms would look for good monitors to document their social excellence. Good monitors would look for good firms to improve their client portfolios and to learn from the best practitioners. Social practices and evaluation methods would improve as both firms and monitors try to better their standing.

As social practices improve, they will establish two kinds of standards. The first are the best practices defined by the most advanced firms and communities. The second are rates of improvement shown to be feasible at various levels of development. Thus both kinds of standards in RLS continually “ratchet” upward as the best practices get better still and firms in various contexts find ways to accelerate improvement, provoking a race to the top.

This dynamic solves the three problems facing ethical sourcing. It makes audits credible by explicitly ranking both auditors and firms, and then disclosing much of the information behind those rankings. The public does not have to take either corporations or NGOs at their word. On the contrary, because firms will have incentives to protest misleading social-practice documentation of other firms, and monitors will call attention to the lax monitoring of their competitors, the public will find information from all sources more trustworthy.

Similarly, this competition of comparisons reduces ignorance by creating knowledge. Firms can use the data generated by RLS to learn. By identifying and examining best social practices, they can improve their own. By the same token, communities could learn from each other about how best to address problems in the informal economy. Because work and family life are closely

intertwined here, improvement more often depends on community know-how and capacity than state regulation or firm initiatives. RLS can help create a forum in which communities can teach each other to build this capacity.

RLS would also enlarge the scope of firms who pursue ethical initiatives. Many firms would join RLS to demonstrate that they share their customers' concerns about ethical issues. Once the public, investors, insurance companies, employees, as well as local politicians and journalists get hold of the first rankings, they will wonder out loud why a particular plant or company refused to participate in the transparent review. Many companies will join to stop speculation.

The more information disclosed, the easier it would be apply pressure to those withholding it. Consumer, public interest, labor, and other advocacy groups could use tactics to which they are accustomed—corporate campaigns, media exposure, secondary boycotts, and direct action—to press just one demand: open up to public comparison through a system such as RLS. Winning this, they could rely upon the full force and social expertise of other RLS parties for further monitoring, ranking, publicity, and social improvement.

How can efforts as numerous and diverse as ethical sourcing, voluntary codes of conduct, independent monitoring, and accredited social inspection be integrated into this systematic social competition? At least two roads converge at that end.

On the first, one of the existing multi-stakeholder ethical workplace initiative, such as the Clean Clothes Campaign, Ethical Trading Initiative, Global Reporting Initiative, Fair Labor Association, Workers Rights Consortium, or SA8000, could make construction of RLS its goal. To do this it would lead by example, imposing significant disclosure requirements on its associated monitoring firms and producers and ranking each of them on their social performance.

Such a committed advocate of transparency would steal a march on its rivals through public attention and appreciation. This advantage might spur imitation, and so spread transparency measures throughout related organizations. Associations that refused to rank member firms by RLS criteria and pool the results with others would be suspected of incompetence, or even of complicity in its members' abusive practices.

Alternatively, transnational organizations such as the World Bank, ILO, UN, or even a reformed and accountable WTO, could collaborate to build RLS. All claim to be moved by sincere concern for the impact of globalization on labor, the environment, women and native peoples. In addition, the World Bank and WTO, given their dedication to free trade and free markets, could see RLS as the lesser evil. Since world public opinion demands some response to scandalous labour conditions, they may prefer a system based on transparency, in which firms themselves determine operational details, to regulation imposed by distant central authorities.

One of these international bodies might begin by establishing an umbrella stakeholder association, composed perhaps of corporate, national, NGO, labor, and monitoring firms, to govern the RLS competition. Alternatively, all could delegate initial responsibility for developing reporting formats and standards to the International Standards Organization (ISO). ISO standards, which require firms to "say what they do and do what they say" are already the

lingua franca of dealings between customers and suppliers in many industries; and ISO is exploring the possibility of creating a process or meta standard for developing ethical sourcing codes. The association or ISO standard would set minimum performance and procedural standards for complying firms. It would also require them to report on their own monitoring protocols and the results of those. This information would then be used to generate public rankings of both producers and monitoring agents.

Every step of this process—salient dimensions of social performance, credible protocols and the rankings themselves—would be highly controversial and contested. This continuous contentiousness advances RLS rather than obstructing it. When members cannot agree on criteria for public social ranking strong performers and weak ones will naturally be tempted to go their separate ways. Fear of jeopardizing their hard-won credibility with the public will restrain them. Instead of dividing, they will be forced to resolve conflicts by widening the circle of discussion, drawing together pertinent knowledge dispersed among associated firms, stakeholders and professional groups. If the experience of a related standards-setting institute in the US nuclear power-generating industry is any guide, the secretariat will become more proficient, but more transparent as the quality of its reports and rankings improves. In time it will be able to discipline recalcitrant members without immediately calling on leading members for support, and the voluntary initiative will approximate a (new style) regulatory authority.

National governments and labor unions may oppose RLS at first because it is unfamiliar and invites new actors into a game at which they are old hands: regulation. Nevertheless, RLS could reinvigorate these venerable institutions.

At the least, RLS-generated knowledge would permit regulators to identify leading and lagging performers internationally, and so set benchmarks for domestic regulation. A further step would be passage of laws requiring domestic firms to participate in RLS. In doing so, strapped agencies would supplement their own limited inspection and compliance monitoring activities by effectively enlisting RLS NGOs and auditing firms. States could give additional legislative force to RLS by requiring domestic firms to score high on RLS measures or face official sanctions. Regulatory agencies might also join RLS as certified monitors in order to learn from private sector innovators like Verité and SGS and capable NGOs.

But who will take the first step? The current leaders of ethical global production—responsible corporations, anti-sweatshop groups, powerful international organizations, or accreditation groups—will be cautious. Commitment to RLS could trouble consensus within their organizations and shake the fragile alliances that sustain the movement. On top of all this the transparency that RLS promises will surely mean occasional embarrassment for even the most open of organizations.

But the current schemes, promising yet unaccountable, are not ends in themselves. It would be ironic indeed if **the** very leaders who had the vision and courage to take early action now become an obstacle to further progress.

If they falter the initiative may pass to campaigning NGOs who have stayed outside all schemes, or to the vast body of Southern NGO, human and labor rights activists and union leaders who see

the potential and the deficiencies of the current process. Or pressure for movement may come from Southern governments. They increasingly recognize that painful as RLS transparency may be, it could be the best way to ensure that the unstoppable trend in western consumer concern about social and environmental standards in world trade does not become (by design or unintended consequence) a new means of protectionism.

Horrendous labor practices reveal serious defects in the rules that govern international commerce. Ethical sourcing and its cousins are an encouraging step forward, but their limitations are manifest. A system like RLS, that opens the social performance of firms to public scrutiny and informed action, is the best hope to overcome those obstacles and deliver the changes that people the world over demand.