

## **Freedom of Association and CSR**

### ***Remarks of Jim Baker, ICFTU, to OECD Conference on Corporate Social Responsibility 19 June 2001***

At CSR conferences, it is always necessary to state the obvious, because the din of fine words combined with hucksterism sometimes drowns out the obvious. Corporate social responsibility will never take the place of governments assuming their responsibilities, including taking binding measures to protect the rights of workers. In the course of human history, private voluntary initiatives, by themselves, have never been sufficient to protect working people. Unfortunately, at the global level, many still seem to believe that law and order should only protect the powerful. Vague notions of social responsibility are deemed adequate to protect the weak.

This does not mean, of course, that CSR and voluntary action in general are not important. Trade unions consider, for example, that free collective bargaining, while essentially voluntary, is a quite effective means to protect workers. The State or States should provide the framework, but collective bargaining is often a far superior method than regulation to fill in the details. One of the few solid indicators of CSR is, in fact, the corporate practice of constructive industrial relations and the negotiation of agreements with trade unions

CSR is not philanthropy and it must be more than just obeying the law. It concerns the impact of companies on society's needs and goals. This is not at all the same as, in the name of CSR, trying to re-define the expectations of society, instead of responding to them. As with the implementation of the OECD Guidelines, this requires the respect of democratic institutions and processes.

It is not the mission of companies to take care of people by remote control that they can make no claim to represent. It is important, however, that through global action for decent corporate behaviour workers obtain the respect of their right to take care of themselves. CSR is useful to the extent it opens up the possibility for workers to define and defend their own interests.

The central issue in corporate social responsibility is, therefore, trade union rights: freedom of association and the right to organise as well as the right to collective bargaining. Workers need solidarity, not charity. They need power, not empowerment.

The key to any ambition for useful and credible CSR is:

- A standard of conduct that includes all core labour standards, particularly trade union rights;
- serious application of CSR policy inside the enterprise;
- and engagement, including by governments, and social dialogue in order to implement standards.

When unilateral company codes of conduct first came into fashion, most of them did not contain trade union rights. They were fairly empty and obvious public relations responses to adverse publicity that revealed, for example, that the global market had become a delivery system for products made by children.

In recent years, progress has been made in terms of what is considered acceptable for the content of codes of conduct. Any code that does not include freedom of association and collective bargaining cannot even pretend to be credible.

The idea that corporations should respect freedom of association and collective bargaining is, of course, not new. A quarter of a century ago, the pioneering efforts in this area, the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Principles on Multinational Enterprises and Social Policy, featured trade union rights. And, 20 years before that, the ILO created the Committee on Freedom of Association to give special attention to those central liberties and enabling rights, a mechanism that applies to all member countries whether or not they have ratified conventions 87 and 98.

In addition to purely unilateral codes and instruments that have emerged for international bodies, private codes supported by large numbers of companies have developed. These include SA 8000 and the Ethical Trading Initiative. Both prominently include freedom of association and collective bargaining.

However, there are still many unilateral codes of conduct that exclude these fundamental principles. And there is one code without trade union rights that has multiple corporate supporters, the Global Sullivan Principles, although in fairness to a number of companies that have endorsed it, it should be pointed out that many of them have listed trade union rights in their own codes. This sham code does not include collective bargaining at all and speaks of what it calls “voluntary freedom of association.”

Freedom of association has a meaning. The ILO Committee of Experts and the Governing Body’s Committee on Freedom of Association has defined it over decades. What does the Global Sullivan Principles reference to “voluntary freedom of association” mean? In fact, what does “voluntary freedom” mean in general? Is it the opposite of “involuntary freedom?”

It is shocking to have the Global Sullivan Principles included in a conference like this, sharing the limelight with legitimate instruments with credible content, like the OECD Guidelines. There is enormous amount of effort that must take place to improve corporate conduct, even with codes that meet international standards. That work will not be furthered by the acceptance of “CSR light” as if it were the real thing.

There are now a large number of codes that include all of the international, universal, and fundamental labour standards, the same ILO standards that are incorporated in the OECD Guidelines. Unfortunately, such codes as well often mean little or nothing. And the responsibility for them is frequently given to those who exercise their craft with smoke and mirrors rather than to those who do the real work of running companies.

The proliferation of codes of conduct has led to the rapid growth of the social auditing industry. The industry has developed a real talent for building Potemkin villages, where the truth is obscured rather than revealed and creative approaches are being taken to the definition rather than the application of freedom of association. Increasingly, the weaknesses of these so-called “independent” social-auditing firms are increasingly being discovered, including by client companies.

These failures should have been anticipated. If you have a car in need of repair and you take it to somebody who has never seen a car, you wouldn't expect brilliant results. Even a barely competent government labour inspector would have more training and experience than social auditors. Labour inspectors, like trade unions, have considerable experience in policing conditions at the work place.

However, better professional competence and standards will not solve all of the problems nor will they guarantee CSR results. Better techniques may reveal some of the mistakes of previous auditing teams, as has already been the case. But one has to recognise that even if many more advances are made, such procedures cannot replace the effectiveness and efficiency of workers defending their own interests.

Social auditing works best when it is closest to financial auditing. One can examine records and check wages stubs, one can test the air and measure exposure to dangerous chemicals, although even in those areas, tricks are possible and practised. But, there is no way to guarantee or verify that there is freedom of association in the absence of a free trade union with a collective bargaining agreement.

Even the most “progressive” approach from the outside does nothing to alter the power relationship in the work place. And, outside observers, regardless of skill levels don't see everything and, after a couple of days, they leave. A free trade union, on the other hand, is the creation and voice of workers themselves. Trade unionism liberates people from the pervasive fear that dominates unorganised work places. And, it stays with them every minute of the day, day in and day out.

Many firms have made efforts, often very expensive ones, to implement their codes. They have taken the important step of making CSR based on universal standards a policy throughout their companies and incorporating it in their management systems. However, after years of experience and improvement, some companies are beginning to realise that they cannot provide credible guarantees that their codes are being put into practice. It is time to take the next step, engagement and social dialogue.

Talking to oneself is not dialogue. Hiring consultants to help you talk to yourself is not dialogue. Doing surveys of workers and conducting focus groups, even if the results are presented with Power Point, is not dialogue. Social dialogue requires talking with and listening to legitimate interlocutors.

Freedom of association and collective bargaining are not just rights. They are means as well. That is why they work. That is why they are so powerful. And, that is why they are so feared by autocrats, public and private.

National or local social dialogue is no longer enough. The global economy requires global social dialogue. Fortunately, that is beginning to emerge, in spite of the lack of any binding inter-government framework or mandate. One sign that the Earth is growing more fertile for social dialogue is the UN Global Compact. The Compact is, of course, not a code, although it is built on a foundation of fundamental principles covering labour standards, human rights, and the environment. It has significant potential because it is a global, rather than purely national social dialogue instrument. As such, it encourages responsibility through engagement at the global level.

And, global dialogue is leading to agreements. A few months ago, a global collective bargaining agreement was signed between a group of ship-owners and the International Transport Workers Federation. Nine framework agreements have been signed between major multinational enterprises and international trade secretariats; seven of which have been reached within the last three years. These agreements are voluntary in the same sense that collective bargaining is voluntary, but they are legitimate and bind the parties to common principles. Good global industrial relations also provide a sensible way to solve problems based on the recognition that conflict exists between workers and employers. In the interest of both parties, progress depends on dealing with conflict in a satisfactory manner rather than trying to suppress or ignore it.

The future of corporate social responsibility is not in replacing government responsibility. In fact, it will only fully realise its potential when it can operate on a more level playing field in the context of effective global rules. Although not legally binding, the OECD Guidelines are rules. They should be treated as expectations, not options. The Guidelines are a unique CSR instrument precisely because of the role of governments. Governments can use the Guidelines to insist on corporate social responsibility. This instrument should be driving the CSR debate rather than being only a small part of that discussion. That requires governments to do more than simply commending or contracting them out to enterprises.

CSR requires acceptance of ILO core labour standards, all of them, spreading them throughout companies and their suppliers, having a positive attitude towards trade unions, and engaging in an active social dialogue. It calls for the development of sound industrial relations rather than "transmission belt" human relations' management. Such an approach, real, tangible and accountable can lead to changes that are veritable and verifiable by those who do the work.

Freedom of association and strong and comprehensive systems of collective bargaining at the national level are not just positive for the rights and protections of workers and for economic and social progress. They are vital roots that sustain democracy itself and contribute to building stable and productive communities. Globalisation may not be fully understood, but we know that its origin is not ExtraTerrestrial. The wisdom derived from human experience and success about the key role of rights in the organisation of society, locally and in the Nation-State, is relevant and should inform the evolution of the global community.