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# Summary

We can more and more often hear in the media about multinational corporations conducting human rights abuses. This is due to the fact that this discussion, surrounding corporations and human rights, is a hot item on the agenda today. Higher demands are put on the companies to follow human rights and to take more responsibilities in the promotion and protection of human rights. One of the reasons for this is that the border lines, which previously were so clear, surrounding States are starting to lose their importance and the role of States are decreasing. At the same time there is a new form of "State" emerging, i.e. Multi-National Corporations. An increase in globalisation is believed to be the cause of this shift in power.

Due to the rising demand on corporations, there has been a fast growing arena of voluntary initiatives that corporations can join. This arena has been growing so fast that the research has not been able to keep up. Corporations are joining these initiatives mainly to satisfy the public and their other stakeholders (interested parties). The importance and impact of this arena is not yet totally explored.

The overall purpose of this thesis is to evaluate the voluntary approach of monitoring corporate behaviour. It will also evaluate whether this approach is enough to force corporations into compliance with human rights norms or if there is a need for something stronger, like legal regulation.

The thesis includes a descriptive overview of the different types of voluntary initiatives that there are today. It then analyses whether these voluntary initiatives are enough to influence and monitor the behaviour of the corporations. It also identifies some key actors when discussing monitoring.

Three main features will be examined that are needed in order for a sustainability report, produced by a corporation, to be seen as truthful and useful: credibility, consistency and comparability. The thesis identifies the first feature to be the most important. Without the credibility the report is useless. This is where monitoring comes in. The credibility of a report is highly dependent on whether it is monitored by an independent third party rather than an expert within the corporation. If there is no monitoring then there is no sure way of knowing if the company's statements and reports are based on the truth or if they are merely public relations exercises with the purpose to mislead the consumers. Nonetheless, with the voluntary approach corporations cannot be forced to comply, but can only be recommended to do so. The only real force we, as consumers, have on companies is the "shame-factor".

The thesis is concluded with the assessment that the voluntary initiatives are a sufficient temporary solution to monitoring human rights, but as seen recently by violations of human rights by trans national corporations, it is not a long term solution. The voluntary initiatives do however open up the world to discussion between corporations and their stakeholders, (in the past, many of these actors have not even been aware of the others existence). These discussions are very important in raising the awareness among businesses of their social and ethical responsibilities. It has also been a means to learn more about the other part and then better be able to assess the needs and interests of this part.

However, to really get the companies to comply with their new responsibility it will take a lot more than simply the companies promising that they will change. There will also be a need for legal regulation in the future. This thesis has recommended an adoption, by States, of a binding convention with an established monitoring mechanism under it. However, since the world presently does not seem ready for this step, then in the mean time the voluntary approach is the next-best alternative. It is at least a new way in which different stakeholders can influence the actions by non-state actors, i.e. including corporations.

# Preface

I would like to thank my supervisor, Prof. Gudmundur Alfredsson, for all the help and guidance that he has given me throughout the production of this thesis. His constant encouraging has motivated me to work even harder and I am positive that without his help this thesis would not have been what it is today.

Then I would like to direct a special thanks to, Prof. Dennis Driscoll, who has been a great support and information source. His passion and knowledge of the subject and his passion for his profession has helped me in many ways. He, together with Prof. Alfredsson, has inspired me to continue within the field of human rights and business.

Furthermore, I would like to thank the Raoul Wallenberg Institute and again Prof. Driscoll for letting me participate as a spectator to the ASEM conference that was held in Lund in May, 2003. This conference gave me the unique possibility to talk to interesting and knowledgeable people within business and human rights. These discussions have helped me a great deal in my continued work.

Finally, I would like to direct a great thanks to my family, friends and colleagues for putting up with me throughout my education and during the writing of this thesis. It has not always been easy but the support and the encouragement from all of you has helped me to continue. I thank you for this.

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*Caroline Ersmarker*

# Abbreviations

ARP	Accreditation Review Panel
BERN	Business and Economic Relations Network
BSR	Business for Social Responsibility
CAAG	Core Assurance Advisory Council
CEP	Council of Economic Priorities
CEPAA	Charity Council on Economic Priorities Accreditation Agency
CERES	Coalition for Environmentally Responsible Economies
CIP	Corporate Involvement Programme
Cocos	Corporate Codes of Conduct
CSR	Corporate Social Responsibility
GC	The UN Global Compact
GRI	The Global Reporting Initiative
ILO	International Labour Organisation
IMWG	Independent Monitoring Working Group
INPECO	Instituto Português de Ecologia
MNC	Multi-National Corporation
MOSOP	The Movement for the Survival of the Ogoni People
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-Operation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
SA8000	Social Accountability 8000
SAI	Social Accountability International
TAC	Technical Advisory Council
TNC	Trans-National Corporation
UDHR	Universal Declaration of Human Rights
UNDP	United Nation Development Programme
UNEP	United Nation Environment Programme
UNHCHR	United Nation High Commissioner for Human Rights
UNICEF	United Nation Children's Fund
VWG	Verification Working Group

# 1 Introduction

Since the independence of Nigeria in 1960 there has been numerous conflicts regarding the allocation of oil resources in Nigeria. A joint venture operated by Shell is responsible for 40% of Nigeria's total output of oil and 55% of the onshore production. Since 1989, there has in average been approximately 221 recorded oil spills per year in which about 27% are the result of corroding pipe work and about 28% are attributed to sabotage (which was found by Human Rights Watch to be most often carried out by sub-contractors that wanted to make money on the clean-up contracts then those whose land was polluted). In the 1990s, protests regarding the oil production linked to environmental damages and the failure of local people to realise economic benefits escalated in the Delta region. One of the worst incidents happened at a Shell facility, where 80 unarmed demonstrators were killed and hundreds of houses were burnt by a State-controlled military group. One group of demonstrators were especially active during this time, i.e. The Movement for the Survival of the Ogoni People (MOSOP). In 1995 nine of the highest leaders of MOSOP, including *Ken Saro-Wiwa*, were sentenced to death in a court proceeding that can only be called a mockery to justice. Other extreme human rights abuses performed by State actors do have repeatedly been found in the Ogoni region (where Shell was operating). Shell gave no comment when all this was occurring.<sup>1</sup>

Very often in the media we hear stories of multinational companies being involved in different human rights abuses in the world. A company has been caught using child labour in Pakistan; another company is supporting a dictator to secure the right to drill oil in that country, another company is using security forces that are killing, raping and torturing people as guards for their plants etc. The list is not exhaustive. Clear boarder lines between countries are being erased in favour of the sharing of information, technology, etc. This has to stop. The corporations must take more responsibility in the promotion and protection of human rights.

Over the past decade there has been an increased interest in exploring in which ways non-state actors can contribute to the economically, environmentally and socially sustainable development. There is a growing body of different voluntary initiatives with the goal of developing and helping the non-state actors to further such performance, such as international voluntary initiatives, codes of conduct, verification processes, labelling schemes and monitoring processes. Furthermore, consumer awareness has increased through a greater interest amongst consumers about the history of the products they consume. They are even ready to pay more for the products that are produced under conditions set by the international

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<sup>1</sup> For further details concerning the case of Shell in Nigeria, see: Amnesty International and The Prince of Wales Business Leaders Forum, *Human Rights – is it any of your business?*, p. 94-97, 2000.

human rights standards. The question is how are the consumers going to know what actually is going on? Are they to trust the public statements of the corporations? Today there is no clear monitoring of the companies or their conduct. Most initiatives are voluntary and the interest in monitoring of activities amongst companies is low.

Some companies have however responded to this by setting up different control-mechanisms to monitor how their company and their suppliers are following human rights. Today companies are becoming increasingly aware of the risks of not respecting and following human rights. The views of the corporations have in the past always been that *“the one and only responsibility of business is to increase profits”*<sup>2</sup>. This view can now be said to be out of date. Corporations have realised, through the pressure of consumers, non-governmental organisations (NGOs) and now even investment corporations and pension fund firms<sup>3</sup>, that if they do not take more responsibility they will lose a lot of money. This can be shown through a long number of public statements by different CEO’s for leading corporations and investors around the world:

*“We’re part of society and we have some responsibility to contribute to its positive development. That covers issues such as human rights and employment and the question of global warming”*

Sir John Browne, CEO BP Amoco

*“Companies that are good local citizens will find it easier to hire and keep talent, obtain good financing and gain societal approval, political support and regulatory consent.”*

Göran Lindahl, President and CEO of ABB

As the border lines are becoming increasingly vague a new important actor has emerged, i.e. the multinational companies. As the discussion is getting more intense the companies are responding by introducing different measures to please the public and help their reputation. But unfortunately, most companies do not have the backing to their statements which means that we do not know if it is true what they are saying? Monitoring of the companies actions is of interest both to the companies, i.e. since there is a general scepticism against the corporate statements and reports and it will increase their profit if more credibility was connected to their statements, and to the public, i.e. that it will be easier for them to know more about the company and its activities and thereby also can take more responsible decisions when choosing products. With more monitoring their efforts could

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<sup>2</sup> A view very well expressed by the often quoted observation made by Nobel Prize-winning economist Milton Friedman.

<sup>3</sup> *“We can’t be written off as lefty fund managers as we have \$600 billion of investment under our control. It is our responsibility to assess risk and to look after those investments wisely.”* And then he goes on to show why this is so: *“Companies operating in unstable political climates can be exposed to loss of shareholder confidence, negative press and publicity campaigns, safety risks and corruption. Companies must justify their continued presence there in the light of the risks that such activities imposes on shareholders.”* Expressed by Rob Lake, Head of Strategy at Henderson Global Investors.

attain more credibility and this would give them a stronger competitive position in relation to many other corporations. For the consumers it would lead to more transparency in the actions of the corporations. Because, the truth is: What do we actually know about what these multinational companies are doing? How many crimes against human rights are they committing without the knowledge of civil society? How are we supposed to be responsible buyers if we do not know what the responsible choice is?

## **1.1 Subject and purpose**

Today there is not much literature about the relationship between human rights and business. Literature on the subject is usually about whether or not the corporations are accountable for human rights abuses conducted within their organisation or by suppliers, sub-contractors or partners. I believe that we have now reached the next step of this discussion, i.e. that TNCs do have accountability. The issue is how we control whether the corporations are taking their responsibility in promoting and protecting human rights. Today the consumers and other stakeholders are putting a lot of pressure on the corporations to accept this obligation of promoting and protecting human rights. Many companies are also starting to respond to this pressure by getting involved in different voluntary initiatives. There is not much research on these initiatives or on what impact they really have regarding human rights. There is also not much research concerning whether the actions taken by the corporations are serious or simply a public relations exercise. In many cases today we are forced to trust the word of the corporations on these issues and this is alarming. One purpose of my thesis is to add literature and research in this area.

The aim of the thesis is to try to make a descriptive overview of what different voluntary approaches there are available for corporations today. I will then evaluate them by assessing their power to control the actions of the corporations. Since the voluntary initiatives are based on the will of the corporations my focus will be on the possibility of controlling their performance. There is a lot of scepticism against corporations regarding their sincerity in their actions. Therefore, monitoring is of utmost importance to attain credibility to the process of voluntarism. Here NGOs play an important part. Exactly what their part in the discussions surrounding monitoring will be explored in this thesis. I will try to show the monitoring possibilities available today and whether or not it makes the voluntary approach sufficient enough to further corporate social responsibility. This is the overall purpose of this thesis, i.e. to evaluate the voluntary approach of monitoring corporate behaviour and if this is enough to force corporations into compliance with human rights norms, or if there is a need for legal regulation.

I am writing this thesis as a part one of a two paper series. This thesis will cover the voluntary approach to corporate social responsibility through monitoring and the latter will explore the mandatory approach.

## 1.2 Limitations

In our globalised world there are a large myriad of voluntary initiatives. To mention only a few: Ethical Trading Initiative; Clean Clothes Campaign; Fair Labour Association; and many more [these will not be covered in this thesis]. It would be impossible to cover them all here and perhaps also a bit unnecessary. When surfing on the Internet I did not know which initiatives were worth lifting out as my thesis. I found in multiple places on the Internet a list of something called the Global Eight. These eight initiatives have attained a high degree of recognition and a significant following. The Global Eight are: The UN Global Compact (GC); ILO Conventions; The OECD Guidelines for Multinational Enterprises; ISO 14000 Series; AccountAbility 1000; The Global Reporting Initiative (GRI); The Global Sullivan Principles; and Social Accountability 8000 (SA8000). I have chosen to deal with three of these initiatives, i.e. the Global Compact, the Global Reporting Initiative, and SA8000. Three reasons exist for my choice. First, in only choosing a few I can take a deeper look into these cases contrary to describing just all initiatives in the global eight very vaguely. The second was the specific characteristics of these initiative, i.e. that they represent different genres of voluntary initiatives, and thirdly was that a few initiatives only consist of guidelines and standards, but do not consist of any control or reporting; therefore left out from this script. Then I simply chose three of the initiatives remaining.

Another limitation that has been made is regarding the non-governmental organisations (NGOs). There are many NGOs working with human rights and business today. It would not be realistic to cover them all in this thesis. I have therefore chosen one NGO that will be used as a case study of the role of NGOs. Amnesty International was chosen because it is a large NGO and that they are very active in this area. It is in my view one of the most important NGOs in the discussions surrounding human rights and business.

When talking about Codes of Conduct it is important to make a distinction between corporate codes of conduct and codes of conduct for multinationals. Corporate codes of conduct are individual company policy statements that define a company's own ethical standards while codes of conduct for multinationals are externally generated and to some degree imposed on multinationals. The codes of conduct for multinationals are not agreements between corporations or corporations and other actors. The only active part they play is perhaps in the drafting of the codes. In my thesis only corporate codes of conduct will be covered.

There are many actors included under the term non-state actor. However, when the term is used in this thesis it is corporations that are referred to.

## **1.3 Method and material**

This thesis is in part descriptive and in part analytical. The purpose, as said above, is to make a descriptive overview, of the voluntary initiatives that corporations can turn to today, and then to assess whether voluntarism is the way to go to attain corporate social responsibility. To do this I need to use both methods.

The materials used for this thesis was mostly found on the Internet and to a limited extent doctrinal texts and case studies. This is a very new area in which almost nothing has been written or published and to date not very many materials have reached the different libraries in Sweden. Therefore it articles and materials on the subject were scarce and difficult to access in the Swedish higher educational libraries.

## **1.4 Outline**

The second chapter of the thesis will take up the examples of different international multi-stakeholder initiatives there are in the international arena today. Every initiative will be first described in a sub-chapter; which will then be concluded by an analysis of the function of the initiative and an assessment of their importance in the monitoring of trans-national corporations (TNCs).

The third chapter will concern non-governmental organisations and their role in the monitoring of TNCs. First, the general role of the NGOs in the monitoring of TNCs will be discussed. This will then be followed by an example of an NGO working with business and human rights, i.e. Amnesty International. The chapter will be concluded by an analysis of the importance of NGOs in monitoring.

The fourth chapter is about corporate codes of conduct and the monitoring of those. The chapter will start by stating the reasons for creating codes of conducts. It will then continue by showing what the contents of the codes can be. In order for the codes to be effective and credible there is a need for monitoring, verification and assessment. Therefore, the next part of the chapter will discuss the different forms of monitoring and the effectiveness of these. Examples will be given on each type of monitoring method. This chapter will be concluded with an analysis of codes of conduct and their role to monitor the actions of the corporations.

The thesis will be concluded by an assessment of the voluntary approach and some recommendations for the future will be given.

## 2 International Voluntary Initiatives

Today there are eight corporate citizenship initiatives in the world that have attained a high degree of recognition and a significant following.<sup>4</sup> They are all voluntary and multi-sectoral (in that they are applied by different types of industries) and global (in that their members come from all over the world). The global eight are; The UN Global Compact, ILO Conventions, The OECD Guidelines for Multinational Enterprises, ISO 14000 Series, AccountAbility 1000, The Global Reporting Initiative, The Global Sullivan Principles and Social Accountability 8000.

Three of these have been chosen and will be described in further detail below: The UN Global Compact, The Global Reporting Initiative and the SA8000.

### 2.1 Global Compact

#### 2.1.1 The organisation

The idea of the Global Compact (GC) was first presented to the World Economic Forum by the Secretary General (SG) of the UN, Mr. Kofi Annan, on 31 January 1999.<sup>5</sup> The SG challenged businesses to join in an international initiative that would bring businesses, together with UN agencies, the labour and social society, to support nine principles in the fields of Human Rights, Labour practices and Environmental preservation. The vision of the SG was to create a more sustainable and inclusive global economy.

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<sup>4</sup> Malcolm McIntosh, Ruth Tomas, Deborah Leipziger, and Gill Coleman, *International standards for corporate responsibility*, p. 4, 2003, an excerpt from the book *Living Corporate Citizenship* by the same authors. This article is available under: [www.business-minds.com/zone.asp?item=012](http://www.business-minds.com/zone.asp?item=012) or [www.ethicalcorp.com](http://www.ethicalcorp.com), 30 January 2003, last visited 2003-04-05.

<sup>5</sup> Virjam Engström, *Realizing the Global Compact*, p. 18, The Faculty of Law of the University of Helsinki & Erik Castrén Institute of International Law and Human Rights, Helsinki, 2002; Amnesty International (2000), p.89; Amnesty Sweden, Amnesty UK and the Prince of Wales Business Leaders Forum, *Human Rights – a Corporate Responsibility?*, p. 131, 2001, SNS Förlag; S. Prakash Sethi, *Setting Global Standards – Guidelines for creating codes of conduct in multinational corporations*, p. 110, 2003, John Wiley & Sons, Inc., Hoboken, New Jersey; Kenny Bruno and Joshua Karliner, *Tangled up in blue – Corporate Partnerships at the United Nations*, p. 3, available at: [www.corpwatch.org/upload/document/tangled.pdf](http://www.corpwatch.org/upload/document/tangled.pdf), last visited 2003-06-16; and *Guide to the global compact – A Practical Understanding of the Vision and Nine Principles*, p. 4, 2003, available at: [www.unglobalcompact.org](http://www.unglobalcompact.org). Further information regarding the Global Compact can also be found on their homepage, available at: [www.unglobalcompact.org](http://www.unglobalcompact.org), last visited 2003-06-16.

The overarching aim of the GC is to promote and encourage voluntary responsible corporate citizenship.<sup>6</sup> This has been defined as including both internal actions, which affects the people working in the company and external actions, which includes the company's interactions with the external environment to increase social welfare. This has led to three main objectives in the GC;<sup>7</sup> the first is to make the GC a part of the strategy and operations of the corporations the world over. The second is to offer a neutral platform in which dialogue and solutions between businesses, labour and civil society, can be found. And third, it is to facilitate actions and partnerships in support of broader UN goals, and then taking advantage of the huge UN network that is already in place.

The UN has, through the personal initiative of the Secretary-General, taken the initiative to the GC, but it is not a body under the UN itself.<sup>8</sup> This means that the GC is a not a traditional UN agency, but is a network created to promote an initiative. At its core are the Global Compact Office and four UN agencies: the Office of the High Commissioner for Human Rights (OHCHR); the International Labour Organisation (ILO); the United Nation Environment Programme (UNEP); and the United Nation Development Programme (UNDP).<sup>9</sup> It only accepts funding from governments and non-profit organisations.

Except for the United Nations, which works as a convenor and facilitator, all the relevant social actors are represented in the GC network:<sup>10</sup>

- *companies*, whose actions it seeks to influence;
- *labour*, in whose hands the concrete process of global production takes place;
- *civil society organisations*, representing the wider community of stakeholders; and
- *governments*, who defined the principles on which the initiative is based.

At the Core of the GC are the nine principles on which the initiative is based. The nine principles that have been chosen for the GC are based on the assumption on shared universal values and described as “unique in their

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<sup>6</sup> *Guide to the Global Compact and What it is*, both available at [www.unglobalcompact.org](http://www.unglobalcompact.org); Sethi, p. 111; Amnesty Sweden and others (2001), p. 121; and Amnesty International (2001), p. 89. See also *Analysis: The Global Compact: origins, achievements, challenges*, 25 February 2003, in Ethical Corporation Magazine.

<sup>7</sup> *Guide to the Global Compact and What it is*, both available at [www.unglobalcompact.org](http://www.unglobalcompact.org); Sethi, p. 111; Amnesty Sweden and others (2001), p. 121; Amnesty International (2001), p. 89; . See also *Analysis: The Global Compact: origins, achievements, challenges*, 25 February 2003, in Ethical Corporation Magazine.

<sup>8</sup> Virjam Engström, p. 18; Amnesty International (2000), p.89; Amnesty Sweden and others, p. 131; S. Prakash Sethi, p. 110; Kenny Bruno and others, p. 3; and *Guide to the global compact*, p. 4.

<sup>9</sup> *Guide to the Global Compact*, p. 5; and S. Prakash Sethi, p. 112.

<sup>10</sup> *Guide to the Global Compact*, p. 5; and S. Prakash Sethi, p. 112.

universality and legitimacy”.<sup>11</sup> They are drawn from the Universal Declaration of Human Rights (UDHR), the ILO Declaration on Fundamental Principles and Rights at Work and the Rio Declaration on Environment and Development.<sup>12</sup> The nine principles are:<sup>13</sup>

### Human Rights

- **Principle 1:** Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence;<sup>14</sup> and
- **Principle 2:** make sure that they are not complicit in human rights abuses.<sup>15</sup>

### Labour Standards

- **Principle 3:** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;<sup>16</sup>
- **Principle 4:** the elimination of all forms of forced and compulsory labour;<sup>17</sup>
- **Principle 5:** the effective abolition of child labour;<sup>18</sup> and
- **Principle 6:** eliminate discrimination in respect of employment and occupation.<sup>19</sup>

### Environment

- **Principle 7:** Businesses should support a precautionary approach to the environmental challenges;<sup>20</sup>
- **Principle 8:** undertake initiatives to promote greater environmental responsibilities;<sup>21</sup> and
- **Principle 9:** encourage the development and diffusion of environmentally friendly technologies.<sup>22</sup>

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<sup>11</sup> *Guide to the Global Compact*; and Virjam Engström, p. 29.

<sup>12</sup> *Guide to the Global Compact*, p. 5; and Virjam Engström, p. 21.

<sup>13</sup> *Guide to the Global Compact*, p. 13.

<sup>14</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 18-23.

<sup>15</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 23-27.

<sup>16</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 30-33.

<sup>17</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 34-36.

<sup>18</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 37-42.

<sup>19</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 43-47.

<sup>20</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 52-56.

<sup>21</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 57-63.

Since the creation of the GC, four years ago, it has grown rapidly. An Advisory Council, which met for the first time in 2002, is there to support its development.<sup>23</sup> The Council consist of 17 business executives, international labour leaders and heads of civil society organisations, from all around the world and working in their individual capacity.<sup>24</sup> Their task is to forward the aims of the initiative and also to consider issues such as standards of participation in order to protect the integrity of the initiative.

The experience of businesses participating in the GC has shown that it is crucial that commitment to the GC be as successful as possible and by doing so it must have full support from the senior management and wherever possible, from the board of directors.<sup>25</sup> Therefore, the CEOs and the top managers have a crucial role to play in all areas of development and implementation.

The GC has four main engagement functions in which the companies are asked to implement: public reporting, learning, dialogue and action.<sup>26</sup> *Public reporting* means that the GC promotes public accountability and transparency by encouraging the companies to report on their GC-related activities in their annual reports or other sustainability reports. *Learning* is through the information passed on to the GC website. Earlier the companies were also obliged to annually provide to the GC a concrete example any made progress or any lesson they had learnt when implementing the principles.<sup>27</sup> Why the companies are to distribute these examples is so the GC can develop some “best practices” from which others can learn from. These submissions have the goal to receive some kind of response from the public by creating a dialogue and thereby making the companies “visible” even if they are not identified. There are also public *dialogues*, i.e. conferences in which the companies and other actors meet to explore in what ways non-state actors can contribute to the avoiding and overcoming of conflicts. The *action* part takes place through partnership projects in which the GC facilitates the formation of local structures that catalyse actions at the national level. These projects are to contribute in the realization of UN goals on e.g. poverty reduction and development. The GC then reports on the implementation of dozens of such reports within many different areas, such as HIV/AIDS and the implementation of basic education in local communities.

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<sup>22</sup> For more information on this principle and to read some company examples distributed to the GC, see: *Guide to the Global Compact*, p. 64-68.

<sup>23</sup> *Guide to the Global Compact*, p. 5.

<sup>24</sup> *Guide to the Global Compact*, p. 5.

<sup>25</sup> *Global Compact Primer. Putting the Principles into Practice*, p. 1, available at: [www.unglobalcompact.org](http://www.unglobalcompact.org).

<sup>26</sup> *Guide to the Global Compact*.

<sup>27</sup> *Global Compact Primer*, p. 1.

There are many ways in which a company can implement the principles of the GC into their organisations.<sup>28</sup> The decisions on what actions to pursue will probably depend on the company's size, the type of company, its geographical representation and the relevant issues it faces in the global marketplace. To ensure that there are operational and reporting efficiencies, some companies have established internal management structures which are designed to incorporate the nine principles within the entire company's organization and culture. These structures usually take the form of corporate responsibility committees or other bodies, where typically all areas of the organisation are included, i.e. the senior corporate officers, business-line management, etc. The company can also set general corporate policies on each of the three areas dealt with within the GC; specific policies that address the principles within each category, i.e. environment, labour and human rights. Finally, transparency plays a crucial role in the implementation.<sup>29</sup> If the company communicates with the employees it may help raise awareness of the commitment made by the company and also help create a motivated environment for the workers by rooting corporate citizenship throughout the corporation. Transparency is also good in informing other stakeholders of the commitment made by the company. Corporations can raise the awareness of the stakeholders by using external communications, through e.g. reporting under the Global Reporting Initiative (GRI)<sup>30</sup>, which creates greater transparency in the company's progress, commitment and vision and shows them in which areas there is a need for better improvement within the corporation.

The GC has agreed that they, and the GRI, will strengthen their collaboration in order to have a better ability to help companies improve their economic, social and environmental performance.<sup>31</sup> They have come to an agreement in which the nine principles of the GC and the evolving global standards for sustainability reporting from the GRI are linked together. The goal of this collaboration is that the GC's principles will be used in the day-to-day business operations while the measuring and reporting on performance will be made under the GRI framework. For companies that are participating in both initiatives the GC has promised that - in exchange for eliminating the formal requirement of annual submissions - they should use their annual reports or the sustainability reports to describe the actions taken by the company when implementing the GC principles. It has been said that the GRI is a practical expression of the GC principles. Both organisations have therefore seen it as a logical step to further their cooperation and that the reporting of the GC principles is done in accordance with the standards for reporting as found under the GRI.

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<sup>28</sup> *Global Compact Primer*, p. 1.

<sup>29</sup> *Global Compact Primer*, p. 2.

<sup>30</sup> A further description of what the GRI is will follow in chapter; 2.2 of this thesis.

<sup>31</sup> *UN Global Compact and Global Reporting Initiative. Strengthen Cooperation*, latest press release on 17 March 2003. For full information and all press releases on the topic see: [www.unglobalcompact.org](http://www.unglobalcompact.org) and [www.globalreporting.org](http://www.globalreporting.org).

## 2.1.2 Reporting under the Global Compact

The GC is neither a regulatory instrument nor a code of conduct.<sup>32</sup> It is non-binding and includes no specific criteria of performance. It does not set out to police or enforce the behaviour and actions by the companies, but is designed to stimulate change and to promote good corporate citizenship as well as encourage innovative solutions and partnerships. The idea is that companies enlightened self-interest will help in pursuing the principles and stir their actions in consistence with the principles. By using the principles chosen for the initiative the companies can feel confident that the values that they support are universally supported and endorsed. The GC is a joint commitment to common values and not a set of qualifications that are to be met. The GC has indicated that no actions, such as reporting, monitoring, etc., are planned for the future because they feel that it is not within the mandate of the GC. Instead they have the Learning approach which facilitates the discussions between the parties and helps build new relationships for the future.

As a voluntary initiative it seeks to have participants for a diverse group of businesses and other organisations. The companies become members through *first* sending a letter to the SG Kofi Annan from the CEO in which they publicly express support for the GC and its principles.<sup>33</sup> *Secondly*, the company should set in motion the changes within the company so that the GC and its principles become part of the strategy, culture and day-to-day operations. *Thirdly*, the company is to publicly advocate the GC and its principles via different communications options, such as press releases, speeches, information letters to the employees, etc. *Fourthly*, the company is expected to publish a description expressing in what ways they support the GC and its principles in their annual reports, or similar corporate reports, such as sustainability reporting under the GRI.

The submission of the letter to the GC does not mean that any “membership” in the GC follows in the sense that the membership does not put a compulsion on the corporation to become involved.<sup>34</sup> This is one of the ways in which the GC clearly shows the informal and non-binding character of the initiative and that it is reliant on the willingness of the companies to succeed. The initial communications by the companies are not a binding commitment associated with specific criteria. On their website the GC publishes a list of the letters of intent and they post the company’s names. However, this does not mean that they recognize or certify that the companies have fulfilled the GC’s principles.

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<sup>32</sup> *Guide to the Global Compact*; and Virjam Engström, p. 30.

<sup>33</sup> *How the Global Compact Works*, p. 2; and *How to Participate in the Global Compact*; and *Guide to the Global Compact*, p. 7, all available at: [www.unglobalcompact.org](http://www.unglobalcompact.org).

<sup>34</sup> *Guide to the Global Compact*, p. 8.

The learning process (within the Learning Forum) is based on the company posting on the GC's homepage.<sup>35</sup> The company, when becoming active in the Learning Forum, undertakes to annually provide a concrete example of progress or a lesson learned when implementing the principles.<sup>36</sup> They are only expected to do so but not obliged. The GC neither regulates nor monitors a company's submissions and initiatives.<sup>37</sup> These examples are supposed to focus on the internal efforts that effect changes in policies, strategies, codes and standards, decision-making and other practices.<sup>38</sup> They can also contain public reports related to the GC principles in, e.g. sustainability reports, annual reports or GRI reports. They should be no longer than 500 words and once it has been submitted and approved by the online facilitator it becomes available on the GC's website.

The examples are then expected to initiate responses from society in general, but primarily from the different partners of the GC, i.e. NGOs, governments, labour associations, etc.<sup>39</sup> Companies are also encouraged to develop their examples into larger case studies for peer review. The other participants are also encouraged to develop in depth case studies and analyses and to use these for learning activities in the corporate and academic world. This sort of openness and transparency is believed to encourage good practice by participants and to help facilitate the implementation of the nine principles.<sup>40</sup>

Many NGOs have expressed concerns regarding the GC and its lack of development.<sup>41</sup> In a letter from Amnesty International, Human Rights Watch, Oxfam International and Lawyers Committee for Human Rights to the Deputy Secretary-General Mr. Louise Fréchette, the coalition of NGOs expressed:

*“...Proposals to build some mechanisms of accountability into the Compact have been difficult to advance. Indeed, some might argue that accountability mechanisms have weakened over time. The original requirement was that companies submit a separate report on compliance to the Secretariat, this was replaced with the obligation that companies submit yearly an example of how they have implemented the principles. This too has now been abandoned (in any case, few companies were*

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<sup>35</sup> Virjam Engström, p. 29-30.

<sup>36</sup> The aim of the whole learning process is through the submissions by the companies of the examples the GC can develop examples of “best practices”.

<sup>37</sup> *How the Global Compact Works*, p. 2.

<sup>38</sup> For more reading about the Examples database, see: [www.unglobalcompact.org](http://www.unglobalcompact.org).

<sup>39</sup> Virjam Engström, p. 29.

<sup>40</sup> *Frequently Asked Questions*, available at: [www.unglobalcompact.org](http://www.unglobalcompact.org), p. 1; and *How the Global Compact Works*, p.2.

<sup>41</sup> See for example the letter sent on the 19 of October 2002 by the Corporate Europe Observatory on behalf of a coalition of environmental and human rights organizations, women's networks and international solidarity groups, etc. This coalition included NGOs like; Corpwatch, Attac, Christian Aid, etc. This letter can be found under news at the Global Compact's homepage; [www.unglobalcompact.org/irj/servlet/prt/portal/prtroot/com.sapportals.km.docs/documents/Public\\_Documents/ceo\\_letter.pdf](http://www.unglobalcompact.org/irj/servlet/prt/portal/prtroot/com.sapportals.km.docs/documents/Public_Documents/ceo_letter.pdf), last visited 2003-06-17.

*complying). The new requirement is that companies simply include in their existing Annual Reports a statement on their efforts to comply with the Compact.”<sup>42</sup>*

A number of safeguards have been developed to protect the integrity of the UN and the GC. For example, there are rules that govern the use of the United Nations logo.<sup>43</sup> These rules also apply to the usage of the Global Compacts image. Regarding the GC, the Advisory Council stated at the last Advisory Council Meeting that they are currently working to establish rules to protect the integrity of the initiative.<sup>44</sup> Accordingly provisions and measures will be taken if the individual participants use the association with the GC for purposes other than the initiatives stated goals and if their individual behaviour threatens the initiative’s integrity.<sup>45</sup>

Among the participants in the GC, corporations like Nike, Novo Nordisk, Nokia, Aventis, Renault, Statoil, etc., are found.<sup>46</sup>

### **2.1.3 Analysis**

The GC is mainly meant to serve as a platform in which policy dialogue and partnership engagement is voluntary. However, this also means that because of the voluntary character of the initiative, no legal action may be taken even for the non-fulfilment of the commitment to submit information to the Learning Forum. Also the vague character of the principles makes it almost impossible to enforce them as it would be almost impossible to define them. They are more likely to be seen as sources of inspiration.

The voluntary character of the initiative has a downside. Since it is based on the voluntary commitment of the corporations you may lose the really big human rights abusers. A large part of business society has not yet accepted this new ground of human rights that is called human rights and business and therefore these companies are lost if not forced to participate. They do not believe in it and therefore they will not commit to it. For them it is not worth the cost that it would lead to as there would be a need for a large reconstruction of the company’s organisation and culture. It is a good thought that the companies would all join and become better global citizens, but it is fairly unlikely to happen. At least in the near future.

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<sup>42</sup> Amnesty International, *Letter to Louise Fréchette Raising Concerns on UN Global Compact*, April 7, 2003. This letter can be found at:

[www.globalpolicy.org/ngos/int/un/access/2003/0606compact.htm](http://www.globalpolicy.org/ngos/int/un/access/2003/0606compact.htm).

<sup>43</sup> *How the Global Compact Works*, p. 6. For more reading on what these rules are, see the *Business Guidelines* (Cooperation between the United Nations and the Business Community, issued on 17 July 2000, available at:

[www.un.org/partners/business/guide.htm](http://www.un.org/partners/business/guide.htm).

<sup>44</sup> *Frequently Asked Questions*, available at: [www.unglobalcompact.org](http://www.unglobalcompact.org), p. 2.

<sup>45</sup> *How the Global Compact Works*, p. 6; and *Frequently Asked Questions*, p. 2.

<sup>46</sup> Full list of Global Compact participating corporations can be found at: [www.unglobalcompact.org](http://www.unglobalcompact.org), the list was last visited on 2003-06-17.

Another criticism against the voluntary character of the GC is that the non-bindingness and lack of monitoring and enforcement mechanisms in the initiative. This creates an imbalance between allegiance and commitment. Companies may use the GC as a public relations exercise that is offering them an opportunity to “blue wash” their malpractice. Blue washing is when a corporation is using the positive UN-brand and the good name of the GC to turn the attention away from them and the abuses they are conducting. There are clear regulations in the UN Business Guidelines for how the name and logo can be used, but how are we supposed to know how they are being used if there is no monitoring. Of course, if the company is “caught” conducting malpractice while using the UN’s name then the mere fact that they are co-operating with the UN will not get them “of the hook”. However, is not the damage already done to the good name of the UN when this happens? For every time a situation like this is revealed the reputation of the GC will be damaged. As a consumer one would have a problem with trusting the successes of the initiative without seeing some hard proof and hard effective monitoring. If a company is saying that they are using the GC, and then also benefiting from all that comes with that, then one would want some hard proof that they actually are following it and not only saying that they are. What is needed is clear criteria of how to deal with cases in which a company has been alleged of breaching the principles of the GC.

The verification also returns in relation to the framework of “best practices”. In a network with the purpose of creating knowledge through using examples of “best practices” are not the most crucial questions how accurate these practices really are? The value of the idea of sharing information and developing “best practices” are built on how the company postings are perceived. Although the GC does refer to monitoring systems, internal auditing processes of companies and encourages both internal and external initiatives for verification and implementation, there are no expectations stated in this respect. And even if the GC Office would do a confidential “screening” of the company suggestions there is still uncertainty regarding what capacity they really have of doing so. It is dangerous grounds when practices from old companies are used as models for new companies if those practices are not verified. Internal auditing by the companies themselves, that the GC is dependant on today, does not satisfy any general need for this kind of verification as it is unlikely that the companies voluntarily will damage their own image by reporting the failures of the companies and their examples.

So for the verification the GC is today totally dependent on the Learning Forum and the responses to the examples made by the other participants, such as ILO, UNHCHR, the civil society and the academic community. Faith is hereby placed on the dialogue by the GC partners for ensuring the compliance and placing business actions under scrutiny. The stakeholders, such as NGOs, are hereby expected to provide input needed for discourse. Participating NGOs have themselves expressed doubts to whether they can live up to the task of monitoring the companies. They can assess the extreme situations, but when it comes to the less extreme ones they may not

have the opportunity to monitor in the way that the GC needs them to do. If this is so then the actions by the businesses are not as assessed and monitored as they ought to be in order for them to have the impact that they have within the initiative. Then the initiative is less protected against blue washing and other forms of misuse of the GC and what it stands for.

This also raises the question of the division of power within the GC. The initiative is dependent on a balanced power between all participants. If the NGOs and the other participants cannot fill the very important role as a counterweight to the businesses then the impact and use of these discussions can be questioned as can also the “best practices” framework. The power will automatically role over to the businesses. And since the balance between the participants is at the core of the GC and a necessity for its legitimacy then a great threat is put on the viability of the initiative. The corporations get to much power on the agenda of sustainability development and corporate social responsibility. Some draw the line even harder and claim that the mere existence of these “soft” mechanisms are in itself claimed to be a weakness and a surrendering to the powers of the Multi-National Corporations (MNCs).

However, it has also been argued that the voluntary character may be the one thing that is profitable in the struggle to get corporations more involved since companies are reluctant to commit to processes they see as bureaucratic or controlled by organizations with a narrow and unrealistic agenda. They are also scared of joining an initiative that can later turn on them by being turned into an international legal framework. In general corporations are somewhat cautious towards UN-led initiatives since they are scared that it will be transformed at some time into legal obligations.

One of the GC’s achievements is that it has been able to create a non-threatening framework for discussions regarding the otherwise so intensely politicised topics of human rights, environment and labour. This is also a result of the “low” demands on the companies. They are encouraged to make incremental, but significant progress however, on their own initiative and pace and not the one forced on them by someone else. In order to find successful solutions to the problems surrounding corporate social responsibility there is a need for a greater co-operation and support from all the different actors that are affected by it. However, some progress must be shown by the participating companies or the other participants (including NGOs) will draw back their support to the initiative and that will lead to the total collapse of the initiative. Already today the NGOs have expressed their dissatisfaction with the lack of development of the GC and the decreasing of control-mechanisms on company performance. They are also discontent with the progress of the corporations if any is even shown. The corporations are not evolving fast enough, but easily gets stuck in the position they were in when they joined the initiatives. This could be because the corporations have no desire in changing their behaviour. They just wanted to get involved so that they could gain from the good name of GC and the UN, i.e. “blue washing”.

The achievement of creating a platform for discussion is actually one of their greatest strengths. The fact that they have created a platform on which all affected parties are represented is a great achievement. In many areas today within the field of business and human rights so many discussions take place without involving the key actors, i.e. the corporations. If not all parties are represented at discussions then the results will have less value since it may be hard to come up with a long-term solution that can actually work and that all will agree to follow. It is important to create dialogue between the parties so that they are able to learn from each other and maybe also, for the first time, make them aware of the other parties' presence. If one does not involve the corporations then they will be less interested in finding any solutions. They may not even understand that there is a problem. Yet the situation is not perfect in the GC. There needs to be more local NGOs involved in order for the list of stakeholders involved to be complete.

This platform will also be one of the greatest challenges for the GC in the future just because of the fact that they are managing a network of diverse actors with very different opinions and priorities. This naturally creates a lot of unavoidable tensions, but if controlled this tension can be turned into constructive solutions. The control must be conducted by the GC, but if the actors cannot be controlled then the tension and difference in opinion can limit the value of the initiative as the actors, are likely to leave the discussions.

Another great achievement is the fact that the GC have been able to maintain their integrity and independence. It does not endorse any individual company and the fact that they do not accept funds from others than governments and non-profits has helped them to remain independent. Also the fact that the Secretary-General is associated with it, gives the initiative both credibility and moral authority.

One may feel that, as the leading initiative on the global market, the GC has to start monitoring the corporations performance and verifying the contents of their reports. The Secretariat is small and can only do so much, but at least it should monitor whether or not a company actually is reporting on their compliance and if they are not then the Secretariat must inform them that they are required to do so. Furthermore, the Secretariat should, on a yearly basis, make an assessment of the quality of the information that the companies are distributing and then make a public statement on their findings. This is however something that the GC seems very reluctant to do.

The lack of monitoring is, in my view, one of the issues that will decide if the initiative will survive or not. The Learning Forum that the initiative is dependent on now will not work in the long run and there will not be enough results shown to keep the interest in the initiative alive. The NGOs will loose patience with the lack of development and the public will loose faith in the initiative. Unfortunately there probably will not be any

independent monitoring included in the GC since the corporations have made it quite clear that the only reason that they are involved in the GC is because of its voluntary character and the GC itself have repeatedly expressed that they will not change the voluntary character of the initiative by introducing performance-requirements. If the NGOs pull out of the initiative, as they have threatened to do, then the initiative will lose all its value. Therefore, only the future can tell how the story of the Global Compact will end.

## **2.2 The Global Reporting Initiative**

### **2.2.1 The organisation**

The Global Reporting Initiative (GRI) was established in 1997 by the Coalition for Environmentally Responsible Economies (CERES) in collaboration with the United Nations Environment Programme (UNEP)<sup>47</sup> and between 1997 and 2002 it was a project within these two organisations<sup>48</sup>. In 2002 it became a permanent independent organisation.

The GRI was created to respond to the economic globalisation, where turmoil and change characterise the capital, labour and technology markets.<sup>49</sup> The globalisation has, in part, been made possible through the development of global transportation and global technology (such as the Internet). The corporate processes of today are characterised by global supply chains and global communications. Since corporations have moved to the global arena, State jurisdiction no longer applies, in other words they are always one step behind in terms of legislating actions of non-state actors. This is because States cannot legislate on such transnational activity. Along with the changes made by globalisation there has been a growing demand for more corporate responsibility and accountability and that they report on how they respond to these new responsibilities. As the interest for environmental and sustainability reporting has increased so too has the diversity of reporting methods. The GRI was created in response to this very confusing arena. Its goal is to serve as a generally accepted reporting framework so that the reports are more easily comparable and thereby the value of them will increase.

The GRI is a global multi-stakeholder process with the ambitious mission to:

“Elevate economic, environmental and social reporting to a level equivalent to financial reporting in terms of routine practice”

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<sup>47</sup>Malcolm McIntosh and others, p. 4; and *2002 Sustainability reporting guidelines*, p. 65, available at [www.globalreporting.org](http://www.globalreporting.org), last visited 2003-06-17.

<sup>48</sup> For more information, see : [www.globalreporting.org](http://www.globalreporting.org).

<sup>49</sup> Gordon Sillence, *Conference Report: the GRI and Sustainability Indicators*, Instituto Português de Ecologia (INPECO), Nov 2000, available at: [www.inpeco.pt/eng/events/news/GRI\\_Indicators.html](http://www.inpeco.pt/eng/events/news/GRI_Indicators.html), last visited on 2003-04-08.

“Design and continually improve reporting guidelines reflecting the three dimensions of sustainability: economic, environmental, and social”

“Sustain a global and independent institution to steward the Guidelines”<sup>50</sup>

The GRI guidelines address economic, environmental and social performance.<sup>51</sup> In 1999 the GRI launched a draft of the Sustainability Reporting Guidelines to voluntarily be tested by any company and commented on by any stakeholder. Twenty-one companies from around the world pilot-tested these guidelines and hundreds of stakeholders gave their comments.<sup>52</sup> In 2000, GRI launched the revised Sustainability Reporting Guidelines (which were revised with the result of the comments and tests of the first draft released in 1999) and the latest revised version was launched in 2002.

The GRI encourages companies to follow the guidelines when preparing their sustainability reports and then report to the Secretariat of the GRI when they have submitted the report, so that the Secretariat can publicly acknowledge the efforts made by the company.<sup>53</sup> However, since the guidelines are optional there is no obligation to inform GRI, to use the Guidelines nor to report.<sup>54</sup> The guidelines are set to help those companies that are ready to go further in their reporting and to set examples for the rest within their fields. They are intended to apply to “*organisations of all sizes and types operating in any location*”<sup>55</sup>. Today there are 205 companies in 24 different countries that are reporting under the GRI.<sup>56</sup> Among these, corporations like; Adidas Salomon, Body Shop International, DuPont, Ericsson, Nike, etc., can be found.

## 2.2.2 Sustainability reporting

### 2.2.2.1 Definition

Today pressure on the companies to show in reports how they have lived up to their performance goals has increased. It is no longer simply their economical achievements that are referred to, but also how they have helped

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<sup>50</sup> *The Global Reporting Initiative*, p. 2, available at: [www.globalreporting.org](http://www.globalreporting.org), search path: about GRI > frequently asked questions > PDF brochure.

<sup>51</sup> *The Global Reporting Initiative*, p. 2; and Malcolm McIntosh and others, p. 4.

<sup>52</sup> Malcolm McIntosh and others, p. 4; *The Global Reporting Initiative*; and World Business Council for Sustainable Development, *The global reporting initiative*, 1 March 2002, available at: [www.wbcsd.org](http://www.wbcsd.org) search path: case studies > key projects: accountability > accountability & reporting > The global reporting initiative, last visited 2003-04-08.

<sup>53</sup> *The Global Reporting Initiative*.

<sup>54</sup> *2002 Sustainability reporting guidelines*, p. 9.

<sup>55</sup> *2002 Sustainability reporting guidelines*, p. 9.

<sup>56</sup> *The Global Reporting Initiative*.

in the protection of the environment or how they have tried to raise the social well-being.<sup>57</sup> This pressure has been put there by many different stakeholders, such as the consumers, organisations and communities.

Sustainability reporting is a process in which the social, economical and environmental performance is publicly disclosed (also known as the “triple bottom line”).<sup>58</sup> These three areas were chosen because they best reflect the currently most accepted definition of sustainability. There is a need for a close relationship between these three areas (environmental, social and economic) in order to attain sustainability without jeopardising future needs. GRI has, as a starting point in this complex issue, chosen to define sustainability in this way, but recognises the fact that this cannot be the final definition. This guideline is a living document where the definition will evolve continually in the same pace as a consensus on how to best measure the performance of the organisations with regard to the goals set up for sustainability development.

### **2.2.2.2 The report**

The GRI functions as an external framework that enables the companies to communicate on what actions they have taken in order to improve their economical, environmental or social performance.<sup>59</sup> It also enables them to show the outcome of such actions and to demonstrate how they will improve these actions in the future.

In the 2002 guidelines, the GRI have introduced a concept of “in accordance” reporting.<sup>60</sup> This has been created to help the reporters and the report users to distinguish between the organisations that are using the guidelines simply for informal use versus the ones using it for more systematic reporting, i.e. reporting “in accordance”. This means that the reports are more transparent, have greater coverage and a better structure. Currently there are only nine companies that are announced, on the GRI homepage, as reporting “in accordance” with the GRI 2002 Guidelines.<sup>61</sup>

There are five conditions that the reports have to meet in order for it to be “in accordance” with the 2002 guidelines.<sup>62</sup> They are:

1. Report on specific elements set out in the Guidelines.
2. Include the GRI Content Index as specified in the Guidelines.

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<sup>57</sup> *The Global reporting initiative*, p. 2.

<sup>58</sup> *2002 Sustainability reporting guidelines*, p. 9.

<sup>59</sup> *2002 Sustainability reporting guidelines*, p. 11

<sup>60</sup> *2002 Sustainability reporting guidelines*, p. 14; and *The GRI – an overview*, p. 3, available in PDF format at: [www.globalreporting.org](http://www.globalreporting.org).

<sup>61</sup> Among the nine Novo Nordisk is found. For more information on which the other eight are, see: [www.globalreporting.org/guideline/reporters\\_IA.asp](http://www.globalreporting.org/guideline/reporters_IA.asp), last visited 2003-06-17.

<sup>62</sup> *2002 Sustainability reporting guidelines*, p. 13.

3. Respond to each core indicator by either (a) reporting on the indicator or (b) explaining the reason for the omission of each indicator.

4. Ensure that the report is consistent with the principles of the *Guidelines*.

5. Include the following statement signed by the board or CEO: 'This report has been prepared in accordance with the 2002 GRI *Guidelines*. It represents a balanced and reasonable presentation of our organisation's economic, environmental, and social performance.'<sup>63</sup>

A common framework needs to be firmly rooted in strong principles but flexible enough in use to meet the needs of the world's highly diverse organisations. Therefore there are two key objectives, in addition to the five conditions, that have to be met if the report is to be "in accordance" with the GRI framework: *comparability* and *flexibility*.<sup>64</sup>

Ever since the beginning, *comparability* has been a very important aspect of the GRI framework.<sup>65</sup> One of the purposes with the creation of the GRI was to establish a generally accepted framework for sustainability reporting that all could follow. Thus, by creating a common reference point for all report preparers that follow it, they can get the maximum amount of comparability across reports. This is extremely important in assessing the reports value.

Between different industry sectors and different organisations there exist legitimate differences.<sup>66</sup> A report must be able to reflect these differences and still be in accordance with the GRI framework. The guidelines must thereby be *flexible*.

*Transparency* is another very important factor when reporting "in accordance" with the guidelines.<sup>67</sup> To be able to balance the dual objectives of compatibility and flexibility transparency is a key element. The companies that report under the guidelines are asked to clearly indicate how they have used the guidelines and which indicators they have chosen to include in their reports. It is then up to the report users (stakeholders) to evaluate the decisions that the companies have made. After choosing indicators they must specify in their reports the core indicators that they have omitted and give a reasonable explanation to why these were excluded. The GRI also encourages the companies to indicate if they have any future plans for reporting on the excluded core indicators. The report can,

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<sup>63</sup> 2002 *Sustainability reporting guidelines*, p. 13. For the exact formulation of the criterias and for further explanation or reading regarding what the mentioned sectors say, see the 2002 *Sustainability reporting guidelines*, p. 13.

<sup>64</sup> 2002 *Sustainability reporting guidelines*, p. 13.

<sup>65</sup> 2002 *Sustainability reporting guidelines*, p. 14.

<sup>66</sup> 2002 *Sustainability reporting guidelines*, p. 14.

<sup>67</sup> 2002 *Sustainability reporting guidelines*, p. 14.

according to GRI, still be in consistency with the guidelines even if all the core indicators are not reported on as long as there is a good explanation attached of why they were excluded.

There are two categories of performance indicators in the guidelines: *core* and *additional*.<sup>68</sup> The *core* indicators are relevant to most stakeholders and reporting corporations, i.e. it is the indicators that both the report preparers as well as the report users are most interested in.<sup>69</sup> Examples of a core indicator is, e.g. the company's direct or indirect impact on the environment.

*Additional* indicators are those that consist of one or more of the following characteristics:

“represent a leading practice in economic, environmental, or social measurement, though currently used by few reporting organisations;”

“provide information of interest to stakeholders who are particularly important to the reporting entity; and”

“are deemed worthy of further testing for possible consideration as future core indicators.”<sup>70</sup>

Reporting companies are also encouraged to include additional indicators to advance the company's and GRI's knowledge of new approaches for measurement that might be of interest to include in the Guidelines in the future.<sup>71</sup> When limiting the performance indicators to only three measurement areas (environmental, economic and social) the total performance of the corporation may not be captured; since a change of one aspect of environmental, economic or social performance often results in changes to other aspects of sustainability.<sup>72</sup> Therefore, a fourth dimension of information is necessary, i.e. *integrated*<sup>73</sup> indicators.

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<sup>68</sup> 2002 Sustainability reporting guidelines, p. 12.

<sup>69</sup> For further reading concerning which information that should be included in the report, see: 2002 Sustainability reporting guidelines, Part C.

<sup>70</sup> 2002 Sustainability reporting guidelines, p. 13.

<sup>71</sup> 2002 Sustainability reporting guidelines, p. 13.

<sup>72</sup> 2002 Sustainability reporting guidelines, p. 44.

<sup>73</sup> Integrated measures are usually of two types: *systematic indicators* (such as an organisation describing its performance relative to a benchmark, e.g. a percentage of how many accidents that occur in their sector within a given country or the amount of air pollution of a special type that the organisation has released as a proportion to the total amount released in a region) and *cross-cutting indicators* ( which puts two figures against each other and thereby gives them context. For example, eco-efficiency expresses relation between the value of a product or service and its environmental influence and where the value can be expressed in both monetary as well as functional terms.). For more reading see: 2002 Sustainability reporting guidelines, p. 44-45 and (Annex 5) p. 80-84.

The guidelines are not codes of conduct, but are instruments for reporting and measuring a corporation's contributions to sustainable development.<sup>74</sup> The GRI does not, to remain neutral, verify reports but does encourage the corporations to get an independent external assurance of their GRI-based reports.<sup>75</sup> The corporations have substantial freedom in choosing the frequency of preparing reports and also which mode of distribution they want to choose.<sup>76</sup> Most corporations submit the sustainability report as a separate report at the same time as they submit the corporation's annual report. Others include it in the annual report. Either way it is important that the corporations make sure that the two reports are clearly separated and not influenced by the other.

The whole system of the 2002 guidelines is built on the concept that stakeholders are expected to trust the corporation's sustainability reports.<sup>77</sup> The GRI does not function as an external monitoring body. The process of sustainability reporting is built on the mutual trust of the reporters and the report users, which means that it is the corporations themselves that have to want to take steps to enhance the credibility of the reports and thereby benefit from the process.

The GRI has set up some recommendations on what the reports should include in order to address the stakeholders concerns about the credibility of the sustainability reports. The reports should: (i) include the corporation's policies and internal practices in order to enhance the credibility and quality of their sustainability reports; and (ii) include their policies and current practice in regard to providing independent assurance of the full report.<sup>78</sup>

### **2.2.2.3 GRI guidance in regard to credibility and assurance**

The GRI does not verify nor evaluate the contents of the sustainability reports.<sup>79</sup> Neither do they certify or recommend any verification services among the many different corporations that offer these services. The 2000 guidelines did however emphasise that verification and assurance, regarding the creation and use of sustainability reports, is a key component to making the GRI initiative successful.<sup>80</sup> When drafting the 2002 guidelines it became clear that, as the advancement furthers within the area of verification, it was crucial that the GRI expressed their role in verification matters. This was done in the 2002 guidelines.<sup>81</sup> The current role of GRI is: (i) to function as a forum in which report preparers, users and verifiers can meet and discuss in a neutral atmosphere; (ii) to function as a catalyst for the creation of a

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<sup>74</sup> *The GRI – an overview*, p. 2.

<sup>75</sup> *The GRI – an overview*, p. 3.

<sup>76</sup> *2002 Sustainability reporting guidelines*, p. 17.

<sup>77</sup> *2002 Sustainability reporting guidelines*, p. 17.

<sup>78</sup> *2002 Sustainability reporting guidelines*, p. 18.

<sup>79</sup> *Frequently asked questions*, p. 3, available in PDF format at: [www.globalreporting.org](http://www.globalreporting.org).

<sup>80</sup> *2000 Sustainability Reporting Guidelines, on Economic, Environmental and Social Performance*, June 2000, p. 9, available at [www.globareporting.org](http://www.globareporting.org), search path: projects > archives > verification working group > rationale for VWG, last visited 2003-04-11.

<sup>81</sup> *2002 Sustainability reporting guidelines*, p. 18.

common verification framework; and (iii) to function as a tool to facilitate communication, consensus building and understanding.

#### **2.2.2.4 Verification Working Group**

In 1999 a working group (Verification Working Group, VWG) was created to address questions surrounding verification of the sustainability reports.<sup>82</sup> One of their tasks was to produce a Memorandum about the future role in advancing the credibility and quality of GRI sustainability reports, including internal mechanisms and external assurance. In their Memorandum they set out key issues, outputs and recommendations as to how the GRI can advance the credibility and quality of sustainability reports prepared in accordance with the GRI guidelines.

The VWG submitted the memorandum to the Board in connection with their June 2002 meeting.<sup>83</sup> Its function was to keep the public aware of the assurance policy's that are evolving within the GRI. Its focus was on the report preparers and how to best assure that they are reporting on the most useful information. Another task for the VWG was to produce a draft text to the 2002 Guidelines regarding the credibility and quality of the report.<sup>84</sup>

The VWG put forward some key issues that have to be addressed over time and on which consensus or acceptance need to be developed in order to advance the credibility and quality of a sustainable report prepared in accordance with the 2002 Guidelines<sup>85</sup>;

##### *1. Overarching and Pervasive Issues<sup>86</sup>*

The users of the sustainability reports are diverse in background, interests and needs. They are also very different in the demands they put on reports as well as the various degrees of trust that they place in what is reported. This in turn leads to diversity in the expectations and views of the users in the extent to which they feel an external independent monitoring organisation can add credibility to what a company has reported on and how they should do that. There is today a great diversity among the companies between those who feel external monitoring is important and those who do not. There is also diversity in how the monitoring bodies work. All this put together gives a great gap between the expectations of the stakeholders and the performance of the companies, which also affects the credibility and quality of the sustainability reports produced under the GRI Guidelines. This is a

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<sup>82</sup> *VWG Memorandum to GRI Board of Directors*, p. 1, summary of the memorandum is available at: [www.globalreporting.org](http://www.globalreporting.org), search path: projects > archives > verification working group > VWG Recommendations and memorandum to GRI board of directors > VWG memorandum to GRI board of directors, last visited 2003-04-11.

<sup>83</sup> *VWG Memorandum to GRI Board of Directors*.

<sup>84</sup> *VWG Memorandum to GRI Board of Directors*, p. 2. They have made recommendations to Part A, Part B and to the annex of 2002 guidelines. For further reading regarding the draft text, see: *VWG Memorandum to GRI Board of Directors*.

<sup>85</sup> *VWG Memorandum to GRI Board of Directors*, p.8-15.

<sup>86</sup> *VWG Memorandum to GRI Board of Directors*, p 8-9.

wide and general problem that is not only complicated in itself, but also one which causes complications when addressing other more specific problems.

2. *Regarding the purpose/meaning of GRI reports*<sup>87</sup>

It is important that the external assurance provider's conclusions or opinions must reflect the best possible understanding of what the GRI reports are about and what they should contain. Otherwise there is a big risk that there will be a great gap created between the report preparers, users and the work and statements made by those that externally assess the reports.

To use an external Assurance Provider is not the only measure in which to increase the credibility and quality of sustainability reports. Some other measures are: (a) to have internal auditing of the internally reported material, (b) to have independent evaluations of the processes, systems and performances of the companies by external experts or by particular groups of stakeholders, e.g. customers, etc. or, (c) to hold discussions with stakeholders to reach a conclusion on which key issues and interests of information are the most important to address, and (d) to establish a quality control of sustainability reporting by the board of directors, etc. It is not said that using one excludes the possibility to use another. On the contrary, it is preferable to use more than one in combination. What is important is that the report users agree with these methods and that when the corporations are also aware of the other existing mechanisms for monitoring even when using an external Assurance Provider.

Related to this issue is the question of the purpose and the scope of the external assurance and how and by whom this decision should be taken. Today the companies that actually are submitting sustainability reports are in minority worldwide and many of them have not implemented effective external monitoring or developed constructive stakeholder relations. The VWG acknowledges that companies that have adopted some kind of guidelines, e.g. the GRI Guidelines, need considerable time in order to develop the systems and processes needed within the companies to prepare sustainability reports in accordance with these guidelines. However, the VWG has found that even if there is a great diversity in the expectations, scopes, practices and objectives on how to perform an external audit, there is an emerging consensus among report users and also external Assurance Providers that in the future there will be greater pressure to put the GRI reports under some kind of assurance-providing process and that in given time more report preparers also will respond to this demand.

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<sup>87</sup> VWG Memorandum to GRI Board of Directors, p. 9-13

However, the VWG finds it important that, regardless of this emerging pressure, the GRI Guidelines must first of all focus on its purpose, i.e. give guidance on reporting and measurement of information. They feel that the first step is to further the company's ability to report and then move on to the issues of external monitoring. They mean that "*the cart should not be in front of the horse.*"<sup>88</sup> You cannot monitor until you have a report to do it on.

### 3. *Regarding the credibility and quality of external assurance and assurance providers*<sup>89</sup>

For many report users there is a skepticism towards the independency of many external verification or Assurance Providers that are selected, retained and compensated by the management of the corporation that is to be investigated. Another area of skepticism is when the provider also conducts other advisory services to the corporations on subject matters and underlying matters on which the assurance process is to be based. The issue of independence is of great importance when evaluating the Assurance Providers and their systems.

When preparing financial reports there is a requirement, usually by both law and business practice, that the auditor is trained in this special field and is certified or licensed to conduct this kind of work. They are to follow professionally set up codes of conduct and they can be held liable for misconduct or for conducting other sub-standard work. Within the evolving field of assessing and verifying sustainability reports, there is no establishment of the kind of schemes that apply to the financial reports. Internationally there exists no consensus on what the essential competencies and qualifications of the Assurance Providers should be in order to be creditable or reliable. Therefore, the companies have to be careful when selecting Assurance Providers as there is no guarantee of their competence.

Another dimension of assurance-providing services is that there should exist some generally accepted criteria against which the performance can be measured, i.e. for the GRI sustainability reports these should be the GRI Guidelines. If there are no such criteria the report preparers, when calling for assessment guidance from individuals or assurance providers, will find themselves with a confusing range of approaches and methods proposed and no way of proving their performance in accordance with any sets of widely accepted and suitable quality standards.

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<sup>88</sup> VWG Memorandum to GRI Board of Directors, p. 13.

<sup>89</sup> VWG Memorandum to GRI Board of Directors, p. 13-14.

4. *Regarding the usefulness of what is communicated to report users by external assurance providers*<sup>90</sup>

As there is no consensus today on what an assurance report should consist of, there is much diversity in the form and wording of these kinds of reports. Today it is difficult to determine and understand what level of assurance that is actually provided by these reports. This diminishes the value and usefulness of the assurance service as well as diminishes the credibility of the whole process and the service provider itself.

5. *The approach needed to address the above issues*<sup>91</sup>

It will take a joint involvement and representation from all three principal stakeholder categories, i.e. the report preparers, users and verifiers, to produce an approach to deal with the issues mentioned above. Today there are many accepted concepts, principles and practices to draw upon in finding a solution to the problems but it is a process that will take a lot of time. The GRI approach could work as a model for the creation of a body that can deal with the assurance issues more speedily and to attain a widely accepted assurance standard.

The VWG also gave recommendations regarding the future role of GRI, its credibility and quality.<sup>92</sup> They stated that GRI should continue to try to expand the existing network of individuals and organisations that are active in the VWG. Another recommendation was to set up a new group within GRI called the Core Assurance Advisory Group (CAAG) situated under the Technical Advisory Council (TAC). This group were to provide advice on how to best address the issues surrounding assurance processes. This group was to receive support from the GRI Secretariat. The Secretariat should establish a monitoring, research and information dissemination function in which their task would be to gather all the information they can regarding, e.g. what the corporations preparing GRI reports are doing regarding credibility, quality and independent assurance, how assurance-practices are evolving etc. Also the questions surrounding the independence and further development of assurance providers should be a function under the Secretariat. Finally, they also recommended the GRI Board to consider, from the information received by the CAAG and the Secretariat, whether the GRI should work as a catalyst in creating an independent international body to deal with issues concerning quality and credibility or to encourage and support the work of the existing bodies to address matters concerning the providing of independent assurance.

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<sup>90</sup> VWG Memorandum to GRI Board of Directors, p. 14-15.

<sup>91</sup> VWG Memorandum to GRI Board of Directors, p. 15.

<sup>92</sup> VWG Memorandum to GRI Board of Directors, p. 16-17.

On the recommendation of the VWG (that now is inactive) a new working group called Assurance Working Group was adopted to continue the work of VWG surrounding assurance.<sup>93</sup> It is established under the TAC, but will report to the Board on issues pertaining to GRI's role in future practices in relation to GRI-based reports.

#### **2.2.2.5 Recommendations and guidance in the 2002 Guidelines**

Annex 4 in the 2002 Guidelines contains guidance to corporations that are considering using assurance procedures as the method to further the credibility and quality of their sustainability reports.<sup>94</sup> The GRI recommends to first consult with the stakeholders in order to determine their perceptions and expectations about matters of credibility.

Many corporations already have internal systems to record, monitor and improve the accuracy, completeness and reliability of the information concerning the companies performance given to the management regarding, e.g. health, environment, etc.<sup>95</sup> This management information may also include information on their impact on the community, but usually do not include issues regarding, e.g. a companies violations or support for violations of human rights, etc. This information is then the information upon which the management bases their sustainability reports. The information from the internal mechanisms is usually not accessible to the stakeholders (interested parties) and therefore the stakeholders may look for another way to verify that the information, which is reported on, is reliable and complete. It is here that the assurance report from an independent Assurance Provider can play a key role in introducing reliability and completeness to the information included in the report and therefore also to the sustainability report.<sup>96</sup> This because when the company uses independent assurance then the Assurance Provider usually examines and reports on how effective the internal processes are in attaining relevant and reliable data on which the corporation then bases its performance reporting on.

The GRI recommends that the assurance report is published in connection with the sustainability report to which it relates.<sup>97</sup> It is however important to show clearly that the assurance report is not included in the sustainability report but is a separate report. It is also recommended by the GRI that the assurance report should be addressed to the Board or to the stakeholders.

Although the GRI has not provided any standards for how the assurance processes should be conducted, they have recommended some minimum

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<sup>93</sup> Homepage of the Global Reporting Initiative, [www.globalreporting.org](http://www.globalreporting.org), search path: about GRI > frequently asked questions > assurance working group, last visited 2003-04-14.

<sup>94</sup> *2002 Sustainability Reporting Guidelines*, p. 76.

<sup>95</sup> *2002 Sustainability Reporting Guidelines*, p. 76.

<sup>96</sup> *2002 Sustainability Reporting Guidelines*, p. 77.

<sup>97</sup> *2002 Sustainability Reporting Guidelines*, p. 78.

criteria that the assurance reports should comprise.<sup>98</sup> These are: (a) a reference to the governing body within the company that the information contained in the sustainability report and its presentation is their responsibility; (b) a comment which states that the content of the assurance report is the sole responsibility of the assurance provider; (c) a statement guaranteeing the independence of the assurance provider; (d) a statement regarding the purpose and scope of the assurance reporting; (e) a statement that shows which criteria the assurance provider has based their report; (f) what professional standards that were used when carrying out the assurance engagement; (g) a brief description on how the assurance provider has been able to attain the qualitative and quantitative information which they have based their report; (h) a clear statement on the assurance providers findings; and (i) the location and identity of the assurance provider and the date which it was published.<sup>99</sup>

The GRI states that the assurance process is a living process, i.e. that it is never perfect, but must be continuously assessed and that consultations with stakeholders must take place continuously in order to add the value and to identify potential improvements to the process.<sup>100</sup> This will lead to an increased trust in the sustainability reporting.

### 2.2.3 Analysis

The GRI's president Bob Massie has said that;

*“We went from an experimental idea to a global institution in less than five years,`... This achievement was possible for three reasons. First, we rode the new energy of the Internet. Second, we were a cooperative effort which attracted the commitment of extraordinary business and NGO partners. And third, we stumbled on that thrilling rarity – an idea whose time had truly come.”*

This shows that it is not only a selling idea that is needed in order to make a voluntary initiative work in an international market. If the market, i.e. the companies that produce the sustainability reports, are not ready to participate in the initiative then it is useless and will not work. It is just this that makes voluntarism a very poor alternative when working for a greater responsibility of TNCs in human rights issues. I will below, through my argumentation, show why this is so.

Not many believed in the idea of GRI in the beginning. It was seen as something that only the leadership companies would use. As time has passed the “success” of this initiative has become more and more evident. The GRI has had to become an independent organisation in order to handle the growth. So why has it become such a “success”? It has to do with the

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<sup>98</sup> 2002 Sustainability Reporting Guidelines, p. 78-79.

<sup>99</sup> For further reading regarding what the recommendations made by the GRI to the report preparers on credibility and quality of reports, see Annex 4 in the 2002 Sustainability Reporting Guidelines, p. 76-79.

<sup>100</sup> 2002 Sustainability Reporting Guidelines, p. 79.

fact that all the biggest stakeholder groups are also involved in the process. It is in the long run the stakeholders that set the requirements of the companies, since they are the ones buying and perhaps delivering the products. It is also for them that the companies are reporting in the first place. Therefore, to get them involved in an earlier stage when they are affected is crucial. The parties hold discussions within this forum and thereby they learn more about each other and what the other parties' needs are. Thereby, it is easier to reach conclusions that are acceptable for all the parties. One may find this to be one of the reasons behind its success.

Another reason for its "success" is that the goal to become a generally accepted reporting framework used by all when reporting on sustainability. GRI has strong backing from both companies and NGOs around the world and this broad support is helping it to become the universally accepted guideline for sustainability reporting. The GRI is however not developing fast enough. The stakeholders are putting increasing pressure on the initiative to introduce a verification obligation under the GRI. This is not being done and can in the long run decrease the importance of the initiative.

Under the GRI there is no reporting obligation. The companies can sympathise with the ideas of the initiative, but they do not have to produce anything. Even if they choose to report under the initiative they do not have to do it in full. A new addition to the 2002 Guidelines was the introduction of a definition for what a report "in accordance" was. This definition was added, to the new edition of the Guidelines, as a response to the increasing demand from the public about external assurance of the companies' sustainability reports. The GRI found that they were not ready to start to assess or verify the contents of the reports yet. Neither were they ready to act as a certifier of the Assessment Providers that are most suitable to make the assessment or verification. However, they could not totally ignore the demand put on them so therefore, in order to simplify the assessment process made by an external body, they increased the conditions that had to be met in order for the companies to report "in accordance" with the Guidelines. The companies must report on all the core indicators and if they do not they have to specify why not and state a plan as to how they will in the future. This is good, but not enough. However, this is no obligation, but only a small step towards reducing the misuse of the Guidelines. But again no one is really monitoring that such a plan really exists and that it is not just a bluff. The GRI is a key initiative for encouraging industry to improve corporate accountability and responsibility, but this is where it stops. It only encourages and does not put any pressure on the companies to actually show that they have produced something. There is not even a reporting obligation under the GRI in order to become a member of the initiative. This means that there could be numerous companies that use the name of the GRI without really living up to the conditions of the Guidelines.

A new term within the international society today is "washing" in all its different forms and colours. For example, one can mention "green washing". This means that a company says they are working for the

environment and improving drastically within the company's procedures and regulations. They then refer to their membership in all different kinds of voluntary initiatives as a verification of their performance even if no such performance is being done within the company. This is a direct response to the increased demand from the consumers on the companies to take greater responsibilities and to attain more accountability in human rights issues. If the companies want to sell their products they are to a larger extent (but not totally forced) to respond to this demand. One way is to do nothing but say you are doing everything (e.g. "green washing"). This is made possible through, amongst other things, voluntary initiatives like the GRI.

The problem is that if you do not know anything about these initiatives, which numerous "normal" people do not, then you believe what the companies are saying. However, if you look at the initiatives, and in this case the GRI, then you can see that there is really nothing there that proves that the company actually is doing what they say they are doing. As there is no monitoring under the GRI the company can simply say that it is a member of the GRI and then not report on it at all. If they do decide to report under the GRI they: first of all, do not have to distribute the report to anyone, which means that there is no external monitoring of the contents in the report. There is only a recommendation by the GRI encouraging companies to report to the Secretariat when they have produced a sustainability report so that the GRI can publicly acknowledge this on their homepage. Second of all, they can freely choose on what they wish to report on since they are only encouraged to report on all the core indicators. Third of all, they can hire an external assurance provider to assess and verify the contents of the reports. The value of this process is, of course, dependent on the independence of such a body. This can be very questionable in many cases. If it was the GRI that assessed or verified then this would not be a problem. This is because an organisation in which all three main groups (report preparers, report users and report verifiers) are involved and which has no personal gain from the reports (at least not so much that it will put their independence to a question). Even the situation in which the GRI did not work as an assessor themselves, but as a certifier for bodies more suited to deal with these questions the situation would also be better than today. If they were to certify some institutions to deal with the issues then the stakeholders could at least presume that the Assurance Provider is independent and that the report prepared by them is correct and reliable. This would also lead to an increased reliability of the companies' sustainability reports.

The GRI encourages the companies to set performance standards and if they have not been able to meet these standards they should give reasons to why they did not succeed. This gives the stakeholders parameters that they can use for measuring the performance made by the companies and to which they can hold the company accountable. There is however no performance measurement within the GRI, but only policies and procedures. At least for a consumer, it is important that a company saying that they do not employ any children also can and will show that neither they nor their suppliers are

using children in their production. It cannot be a too high demand to put on the companies that they must be able to show that what they say is true? Again this is an issue of external monitoring.

The GRI is a quite new initiative. It is only four years since the first draft was released. As this is the case one would think that we cannot rule out this initiative just yet. At least it functions as a good meeting place for different stakeholders and it keeps the discussions going and on the agenda. Its future lies in the supply, verification and sustainability reporting techniques. The quality of the information distributed, the verification of the factual evidence and the credibility of the reports are crucial. At least if the so called “green washing” is to be avoided. This means that in some point or another the GRI has to get involved in the verification process or they will lose its support.

It is a great accomplishment that this discussion forum was created within the GRI. Furthermore, this does much for the legitimisation of the organisation. However, in order for it to survive it has to deal with very important strategical questions surrounding sustainability indicators reporting. Today, the GRI is too focused on the company reporting and the institutional indicators, i.e. the indicators that deal with what a company should report on. However, there are many other actors today on the international market that also are developing their own indicators on how to report on corporate performance, such as NGOs, governments etc. These groups are also very important and to a large extent linked to institutional indicators. The NGOs may not be able to produce a complete report of the corporations performance (as much of the information is confidential), but their report functions as an important cross-reference to the information that the company reports on. These other actors (e.g. NGOs) are often stationed in the region or the province in which the company is conducting the actions that it is reporting on, and can therefore report on, what the company actually is doing and what their impacts really are. They can thereby guarantee the accuracy, transparency and usability of the information reported. The GRI needs to address this question and to acknowledge the importance of these groups. They need to bring them into the reporting process; perhaps as an external Assurance Provider.

For this problem there is a well-known analogy about a playground that can be used. There is a group of boys going around school breaking windows, damaging the buildings and abusing the other children. The teacher is faced with two choices in order to solve the problem. Either the boys could turn themselves in and tell all what they have done or the teacher could turn to the other children to tell what had happened. This can also be used in regard to companies. We can ask them either to turn themselves in and confess to the human rights abuses they have done or we can listen to those that are around them of what they have seen. The two options in combination are absolutely the best alternatives, but I think that the second alternative is the most effective. If there is greater monitoring of the companies and the reports produced by them, then one would think that this will help to further

the responsibilities of the corporations on human rights issues. It is therefore important that the GRI involves itself in monitoring or they will lose their importance. Without monitoring to back up the reports they are useless to the public and other stakeholders. They are merely statements by corporations on their actions and no proof. This will, in the long run, lead to the stakeholders all together disregarding the reports under the GRI.

One may think that the GRI is still developing and that we have not seen the last from this initiative yet. They still play an important role in at least keeping the discussions on corporate social responsibility alive. The fact that they are very aware of the importance to assess the contents of the reports shows that it is maybe one of most interesting voluntary initiatives on the market today. However, one can be sceptical that even this will be enough because it is still a voluntary initiative and that means that it is the companies choice on whether or not they want to participate. And that means that the companies hold the power and we have not much control over them or their actions. They can report, but how will we know that it is true? Only monitoring can bring credibility to the process.

## **2.3 SA8000**

### **2.3.1 Social Accountability International**

During the 1990s increased pressure was put on companies that sold goods domestically, but whose goods were produced in the underdeveloped countries to take larger responsibilities regarding their personnel.<sup>101</sup> Large consumer groups in Europe and in the US started boycotting these goods. This affected the company's image as well as their sales. Initially the companies tried to distance themselves from the sub-contractors using sweatshop labour, but this did not work and the companies were forced to admit responsibility. They then adopted some codes of conduct, but these were criticised as merely being public relations exercises.

The Charity Council on Economic, Priorities Accreditation Agency (CEPAA) was established in 1997 in response to the consumers concerns regarding labour situations after the failure of the companies to adopt internal codes of conduct.<sup>102</sup> This organisation is an affiliation to the

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<sup>101</sup> Ed Shepard, *SA8000 – An external code of conduct, accreditation and monitoring system*, available at: [www.amrc.org.hk/](http://www.amrc.org.hk/), last visited 2003-05-10.

<sup>102</sup> ADB Regional Technical Workshop on Labour Standards, *SA800: A Systematic Approach for Pursuing a High Road to Development*, available at: [www.adb.org/Documents/Events/2002/Core\\_Labour\\_Standards/ma\\_paper.pdf](http://www.adb.org/Documents/Events/2002/Core_Labour_Standards/ma_paper.pdf), last visited 2003-05-10; Ed Shepard; BSR staff, *Verification*, available at: [www.bsr.org](http://www.bsr.org), last visited 2003-05-10; Teresa Fabian, *Social Accountability 8000 (SA8000) – the first auditable, global standard for ethical sourcing driven by CEPAA*, available at: *and About SAI*, available at: [www.sa-intl.org/AboutSAI/AboutSAI.htm](http://www.sa-intl.org/AboutSAI/AboutSAI.htm), last visited 2003-05-10.

Council on Economic Priorities (CEP).<sup>103</sup> In 1998, CEPAA changed names to Social Accountability International (SAI).

SAI is a non-profit organisation dedicated to the “*development, implementation and oversight of voluntary verifiable social accountability standards*”<sup>104</sup>. They work to improve the conditions in the workplace as well as trying to combat sweatshops throughout the world. They have developed the Social Accountability 8000 (SA8000) standards which are international workplace standards. They have here succeeded in developing one of the most successful auditable standards for third party verification.<sup>105</sup> These standards are based on ILO conventions and other human rights conventions, such as the Universal Declaration on Human Rights and the UN Convention on the Rights of the Child.<sup>106</sup> SAI is committed to ensuring that the standards and the systems for verification and assessment of those standards are highly reputable and publicly accessible. It is upon transparency, credibility and verification the SAI’s social accountability system is based.

An advisory board was established in early 1997 by CEPAA (now SAI) to assist in drafting the SA8000.<sup>107</sup> This Council includes experts from trade unions, businesses and NGOs and has wide expertise within areas such as labour rights, human rights, social responsible investment, etc. The strength of the SA8000 is to a large extent the result of this great diversity of the Council as this has made the language clear and the requirements rigorous.

The SAI is constantly aiming at developing and improving their standards. They do this through constantly conducting research, impact assessments, training, evaluating auditors and by learning from the different stakeholder groups in the world on what should be included in the standards, how to implement them in the best way and how to then verify and evaluate them so that they are credible.

### **2.3.2 Social Accountability 8000**

The SA8000 is created so that retailers, brand companies, suppliers and other organisations can ensure good working conditions throughout the whole supply chain.<sup>108</sup> It consists of efficient, creditable and comprehensive tools that help in assuring that the workplaces are humane. The SA8000 includes: (a) standards that are widely accepted labour rights; (b) a management system requirement for ongoing compliance and improvement; (c) independent expert verification of compliance; (d) involvement by all

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<sup>103</sup> A corporate social responsibility research institute that has operated from 1969. For more information on CEP see: [www.cep.org/](http://www.cep.org/).

<sup>104</sup> *About SAI*, available at: [www.sa-intl.org/AboutSAI/AboutSAI.htm](http://www.sa-intl.org/AboutSAI/AboutSAI.htm).

<sup>105</sup> Amnesty (2000), p. 77; and Amnesty Sweden and others (2001), p. 105.

<sup>106</sup> ADB Regional Technical Workshop on Labour Standards; Ed Shepard; BSR staff, *Verification*; Teresa Fabian; and *About SAI*.

<sup>107</sup> *About SAI*.

<sup>108</sup> *Overview of SA8000*, available at: [www.sa-intl.org/SA8000/SA8000.htm](http://www.sa-intl.org/SA8000/SA8000.htm).

the concerned stakeholders, public reporting; and (e) helps consumers and investors to identify corporations with good human rights policies.

The standards of SA8000 are based on well-established norms from different international conventions and the core rights in these conventions.<sup>109</sup> A summary of the workplace norms included in the standards are as follows:<sup>110</sup>

- **Child labour:** No workers under the age of 18 with an exception for countries operating under the ILO Convention 138 developing-country exception, where it is 14. If any child is found to be working they are to receive remedy.
- **Forced Labour:** No forced labour which also includes prison and debt bondage labour. There is to be no lodging of deposits or identity papers by employers or outside recruiters.
- **Health and Safety:** The companies are to provide healthy and safe working environments and shall take adequate steps to prevent accidents and injuries associated with or occurring at work. They are also to make sure that personnel receive regular and recorded health and safety working trainings. Furthermore, the companies shall also establish systems to detect, avoid and respond to potential threats to health and safety. They must also provide, for the use of personnel, clean bathrooms and access to potable water.
- **Freedom of Association and Right to Collective Bargaining:** The companies shall respect the right for all personnel to form and join trade unions and to bargain collectively. When laws restrict these freedoms the company shall facilitate parallel means of association and bargaining. The employee's representatives are to be protected by the company.
- **Discrimination:** The company shall not engage or support discrimination based on race, caste, national origin, religion, disability, gender, sexual orientation, union membership political affiliation or age. They shall not allow sexual harassment.
- **Discipline:** The company shall not engage in or support the use of corporal punishment, mental or physical coercion or verbal abuse.
- **Working Hours:** The company shall comply with applicable laws and industry standards of working hours, but no longer than 48 hours per week with at least one day off for every seven day period. All overtime should be reimbursed at a premium rate and shall under no circumstances exceed over twelve hours per week per employee. If the is part of a collective bargaining agreement it can be mandatory. All other time then this is to be seen as voluntary.

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<sup>109</sup> ILO Conventions, UDHR and UN Convention on Rights of the Child. For the full text of SA8000 international standards, see: [www.sa-intl.org](http://www.sa-intl.org), search path: Document Center > Printable Versions of the *SA8000 Standards*.

<sup>110</sup> *SA8000 Standards*, Section IV, points 1-9, pages 5-7.

- **Compensation:** Compensation paid for a standard work week must meet at least the legal and industry standards and must be sufficient to meet the basic needs of workers and their families. There must not be any deductions from pay for disciplinary purposes.
- **Management systems:** Facilities seeking to gain and maintain certification must go beyond simple compliance to integrate the standards into their management systems and practices.

There are two options that the companies can choose from to implement SA8000:<sup>111</sup> (1) is certification to SA8000, which means that companies that operate production facilities can request individual certifications of their factories through audits by one of the accredited certification bodies connected to SA8000; and (2) to join the Corporate Involvement Program (CIP)<sup>112</sup>, a two-level program, that helps the companies to evaluate the SA8000 standards, implement the standards and report publicly on their implementation progress. The second alternative is for companies that focus on selling goods or that combines production and selling.

### 2.3.2.1 Certification

The SAI has established an independent third-party verification system built on the verification model that was developed by the International Organization for Standardization<sup>113</sup> (ISO 9000 and ISO 14000).<sup>114</sup> To avoid any conflict of interest SAI does not certify the companies directly. Instead the SAI accredits qualified global and local agencies to conduct certification audits worldwide. Certification is only given to a facility and not to a whole brand. There are special requirements that must be met by an organisation to be accredited as a SA8000 auditing body (see chapter 2.3.2.2).

A company that wants to apply for certification is first encouraged to perform an *internal assessment* of their compliance with the SA8000 standards.<sup>115</sup> In this assessment they are to state all the areas in which they do not comply with the requirements of the SA8000 and then take all actions necessary to amend non-compliance. Then they can submit their application to the SAI. The application should include supporting documentation showing: (i) that the facility is in compliance with the relevant national and local regulations; (ii) that they have assessed their factory against the standards; and (iii) they are to make a commitment that they will seek certification audit within one year by placing a non-refundable deposit for auditing fees.

Once they have completed the internal assessment and made all the changes required, the company can contact an accredited auditing firm for an *assessment audit* (also known as a “pre-audit”).<sup>116</sup> The auditing firm will

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<sup>111</sup> *Overview of SA8000*, p. 2.

<sup>112</sup> CIP will not be covered in this thesis.

<sup>113</sup> For more information regarding ISO, see: [www.iso.ch/](http://www.iso.ch/).

<sup>114</sup> *Certification*, available at: [www.sa-intl.org/](http://www.sa-intl.org/).

<sup>115</sup> *Certification*.

<sup>116</sup> *Certification*.

then make an assessment of the non-compliances of the factory with the SA8000 standards.

After the company has made the changes identified by the pre-audit they can contact their Certification Auditor to do a *full certification audit*.<sup>117</sup> A specially trained local audit team will then be assigned to the facility in question. This team is expected to know applicable local laws. They will be assisted by local NGOs who will brief them on local customs, trade unions and who will speak the local language(s) of the company's managers and workers. The company is expected to provide the audit team with relevant records and give them the freedom to interview the employees.

If the team finds something that does not fully meet the requirements of the standards they will issue either a major or a minor corrective action request. A *major action request* means that there is a system-wide non-compliance and the *minor action request* means that there is an isolated non-compliance. The company will then be given the opportunity to correct these non-compliances or set up plans for addressing the non-compliance within a short period of time. The team will then audit the corrections made and then give a recommendation to the Auditor management on whether or not to issue a certificate. The management then takes a decision and then communicates the decision to the company.

A SA8000 certificate is good for three years.<sup>118</sup> There will be surveillance audits performed every six months during this three-year period if the auditor does not find that the facility is complying completely to the standards, because then the audits will only be conducted once a year. The SAI also encourages the auditors to make surprise visits to the facilities so that they are not always prepared. Then after the three years have passed the facility must make a full compliance audit once again in order to receive a renewal of the certification.

Today there are nine SA8000 Accredited Certification Bodies in the world and there are a total of 236 certified facilities in 36 countries within 32 industries.<sup>119</sup>

### **2.3.2.2 Accreditation**

SAI accredits organisations to audit and give companies certification of their compliance with the SA8000 standards.<sup>120</sup> These organisations are then known as certification bodies. The organisations must earn their accreditation before their staff can start to perform certifications of facilities.

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<sup>117</sup> *Certification*.

<sup>118</sup> *Certification*.

<sup>119</sup> *Certification Bodies and SA8000 Certified Facilities* (last updated May 9, 2003), available at: [www.sa-intl.org/](http://www.sa-intl.org/).

<sup>120</sup> *Accreditation*, available at: [www.sa-intl.org/](http://www.sa-intl.org/)

The process in which the organisations are accredited is like a licensing process in which the SAI evaluates the company that is applying to become a certification firm including the staff's capacity to evaluate other company's compliance with the SA8000 standards.<sup>121</sup> This evaluation includes audits of the firm's policies, procedures and documentation. In addition, the SAI also conducts accreditation processes that include: office audit, witness audit and periodical re-evaluations. The *office audit* consists of a review of the office and interviews with the staff working there. *Witness audit* means that the SAI observes the bodies that audit the SA8000 standards and they also make *periodical re-evaluations* of the bodies. This means that they make surveillance audits. The applicants to accreditation must show adherence to the SA8000 accreditation criteria.

First of all, the accreditation applicants must show adherence to the ISO principles and also to the SAI Guideline 1.<sup>122</sup> The SAI Guideline 1 states that (in sum): The certification body must show: (a) how they effectively can obtain and maintain information from regional stakeholders, NGOs and workers; (b) how they will use this information when conducting the audits; (c) how they will determine the sufficient wage level; (d) how they can ensure that the audit personnel is trained in the contents of SA8000; (e) how the selection of the audit teams are being conducted; (f) the skills and experience of the staff as sufficient audit teams; (g) how the auditing staff is obtaining factual information in manners sensitive to cultural norms; (h) in what ways they conduct interviews with and maintain the confidentiality of the workers; and finally (i) show how they find out what languages are spoken by the workers and how this information is ascertained and recorded before accepting a client.

When the applicants have submitted all the documents needed and the SAI accreditation staff has reviewed and accepted the contents, the application is sent to the Accreditation Review Panel (ARP). The ARP reviews and makes a recommendation that is sent to the SAI President. The decision to grant or not to grant an accreditation is taken by the SAI President.<sup>123</sup> This accreditation is then valid for three years and then the organisation must apply for a re-accreditation.<sup>124</sup>

### **2.3.2.3 Complaints and appeals**

The SAI has in SAI Guideline 304 set up definitions for what a complaint and an appeal is:<sup>125</sup>

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<sup>121</sup> *Accreditation*.

<sup>122</sup> *Accreditation Requirements*, available at: [www.sa-intl.org/](http://www.sa-intl.org/).

<sup>123</sup> *Steps to Accreditation*, available at: [www.sa-intl.org/](http://www.sa-intl.org/).

<sup>124</sup> For information regarding the requirements to become a SA8000 auditor, see: *SA8000 Auditor Certification Program*, available at: [www.sa-intl.org/](http://www.sa-intl.org/).

<sup>125</sup> SAI Guideline 304

**Appeal:** A formal expression of dissatisfaction by a party affected by a decision of a certification body, or with a decision by an accreditation body, which is directly related to the certification or accreditation status of the party affected.

**Complaint:** A formal expression of dissatisfaction with some matter related to a certification body, an accreditation body, a certified supplier, a certified product or a certified individual.

*Complaints* to SAI can be filed by any person.<sup>126</sup> If needed to protect the anonymity of the complainant the complaint can be filed confidentially. The complaint must, if possible, include objective evidence of a non-compliance with the SA8000 standards. This evidence might include testimonies or documented breaches. The complaints can be filed directly with the certification body in question. If the complaint is not satisfactorily dealt with by the certification body then it can be re-directed, in writing, to the SAI President. In the event that the complaint is filed against the SAI President, the complaint will be dealt with by the Chair of the SAI Advisory Board instead. In such a case the complainant can either send the complaint directly to the Chair or send it to the President, who must then forward it to the Advisory Board. Every complaint filed will be fully investigated by SAI and as soon as a decision has been taken, the SAI will directly inform the complainant.

It can be accredited certification bodies filing complaints against SAI regarding the audit, surveillance, accreditation or client services provided by them.<sup>127</sup> It can also be certified companies that complain on the performance of SAI accredited certification bodies. Furthermore, it can be SAI personnel complaining about the Management System of the SAI or interested parties complaining about the appropriateness of a certification or an accreditation in the SA8000 system.

An *appeal* can be filed by any interested party against a decision made by SAI if it is filed within thirty days from the time the decision was taken.<sup>128</sup> If it is an appeal against an accredited organization then it should be sent directly to SAI. The appeal is to be made on a special Complaints and Appeals form that the SAI President will send on request. When the appeal arrives to SAI the SAI President and the Chair of the SAI Advisory Board will make an initial review of the information contained and if they find that the appeal is *justified* they will send out a letter of acknowledgement of the appeal. They shall then immediately deal with the issue.

If the appeal is found to be unjustified it will be handed to a sub-committee of the SAI Advisory Board for a private appraisal (appeal sub-

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<sup>126</sup> *Making a complaint or appeal*, available at: [www.sa-intl.org/](http://www.sa-intl.org/).

<sup>127</sup> *Making a complaint or appeal*.

<sup>128</sup> *Making a complaint or appeal*.

commission).<sup>129</sup> This sub-committee is comprised of three Non-Executive Members. The SAI President must also send out a letter to the appellant in which the constitution of the appeal sub-commission is stated as well as the date of which the appeal decision is to be taken. The appellant then has the opportunity to object to the constitution of the sub-committee. When the constitution of the appeal sub-committee is settled they will appraise the content of the appeal. If they feel that it is necessary to verify the facts at the relevant site of the appeal they can go on a special visit to the site. The cost will be born by the appellant if nothing else is decided upon by the Chair of the Advisory Board. When the sub-committee has reached a decision they should inform the SAI President and the appellant in writing. Their decision is final and binding for both parties.

Both the SAI and the accredited organisations must have a procedure to review appeals and complaints in place.<sup>130</sup> If needed, they should also initiate another audit on the expenses of the company or the certification body. There must also be a procedure in place to send notification to the person or organisation filing the complaint or appeal on what corrective measures have been taken. There shall, by all receiving complaints or appeals, be kept a record of every submission sent to them including what the findings were in each case.

To this day (2003-05-15) there has been seven complaints filed under the SA8000 complaints and appeals procedure.<sup>131</sup>

### **2.3.3 Analysis**

The greatest benefit for companies using the SA8000 is that it is a way for them to minimise the risks of having a bad reputation at the same time as they are promoting areas like management systems, improving supply chain management or employee conditions, etc.

The SA8000 standard is a completely voluntary standard, in that there is no obligation for the companies involved in the standard to break of any business relationships with the businesses that fail to attain certification or those whose certification is withdrawn because of non-compliance with the standards. The reason why these companies are not cut off is out of respect for the workers who would loose their jobs if these businesses lost orders. That it also keeps the general public (including the workers) in mind is a great plus to this initiative. However, this is also a great weakness of the initiative. Since the companies are not forced to stop working with the non-complying companies it is hard to argue that those companies must live up to the standards in order to survive. The process of bringing the processes and systems of the SA8000 will cost these companies a great deal of money. It can be argued that this is a cost the company must make to ensure future

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<sup>129</sup> *Making a complaint or appeal.*

<sup>130</sup> *Making a complaint or appeal.*

<sup>131</sup> For more detailed information regarding these complaints see: *SA8000 Complaints and Appeals*, available at: [www.sa-intl.org/](http://www.sa-intl.org/).

orders. This is however dependent on whether or not they will feel the consequences of not doing so. If a company loses money then compliance with SA8000 is easier to motivate than if they do not suffer at all. Then it makes no sense for these companies to spend those amounts of money on compliance. This means that it is simply the good faith of the companies that urges them to move towards sustainable development.

The SA8000 is mostly focused on labour rights. This is very common within the international spectra of voluntary initiatives. It is however not a sufficient solution to the problem of corporate social responsibility (CSR). The companies face reputation risks within all areas of human rights and then to just focus on the labour rights is very dangerous. Even if a company has good procedures, management and policies regarding labour they can still be accounted for failures to live up to the other human rights. If a company is dragged through the media then the damage to the reputation is already a fact. The international community will act on any abuses they find. An initiative like the SA8000 is actually in a way helping this reputation damage of the companies. I make this statement on the ground that businesses are not always aware of all the human rights that they can be held accountable for and therefore they follow the guidelines of e.g. initiatives like the SA8000 in belief that these are the human rights that they need to follow in order to be good global citizens. This is not only the fault of the initiative but is also a failure of the company not to educate themselves in the necessary provisions.

The principles which the SA8000 are built on are very good. The monitoring of it is even better since it is done by a third party. However, in what way is it contributing to the changes of the attitudes of the corporations? As it is a voluntary initiative it is only if the company themselves wants to join that they will. This means that, since there is a certification mechanism set up under the initiative and a continuous monitoring of the certified companies, they will not become involved in the SA8000 if they are not serious. It's too complicated. There are too many criteria's that have to be met in order to receive the certification. This means that the companies joining are probably serious in their activities and will try to become better global citizens. Through this one could say that a small step towards changing the attitudes of the corporations has been made.

There is another aspect of the SA8000 that should be discussed here. What you are actually giving the companies is an incentive to get involved in the processes of becoming a certified corporation under the SA8000. Through living up to the conditions of the certification you are saying to the consumers that: look at us, we are certified so therefore we are good corporate citizens. This is however not true. As I stated before, the initiative is based on labour rights and that means that the areas in which a corporation is conducting good practices is within labour, but there is nothing that says that the companies actually are good citizens in all other aspects of human rights as well. This is very misleading to the public. If you are not very educated within the human rights field you may not know about

these differences in rights. Then you may be fooled into thinking that this company is a very good corporate citizen (which is not altogether false since they have been certified).

Another danger is that the corporations that receive certification only do so for a facility and not for the whole brand. This means that the public can be fooled into thinking that the whole company is a good global citizen while it is only that specific facility that is living up to the conditions set. This can result in a kind of “washing”. The companies can hide behind the fact that their name is published on the website of the SA8000 and that one of their facilities is certified. It is unclear whether or not this is being done but it is certainly a big risk that it is so. The NGOs do not have the opportunity and the resources to be everywhere and to monitor everything so that if they find an abuse they can blow the whistle. Today too big of a responsibility is put on the NGOs when it comes to monitoring and the question regarding, who will take over when NGOs do not have the possibility to monitor, is unclear.

Especially one aspect of the SA8000 is very refreshing. They have included a right to file complaints and appeals. This right is open to anyone, which is very important. Through this, it is not only NGOs that are solely responsible for the monitoring of the facilities, but also the workers may have a say. It is even more favourable to the workers since they are allowed to remain anonymous in their complaints or appeals. However, the complaint procedure is only applicable to the activities in one facility and not the whole company. The complaint is to be handed over to and monitored by the President of the SAI. To be a credible standard, third party monitoring and a set complaint procedure is needed. This initiative has both. It is also a good model for others to use when setting up monitoring of corporate codes of conduct.

Something that can be seen as a weakness with the complaint procedure is what it leads to. The result of the investigations will either be a withdrawal of the certification (if found not living up to the conditions for the certification) or that the certification will remain. If an organisation (on behalf of the workers) or a private person is complaining to SAI about non-compliance they want the wrongs to be corrected. If the SAI withdraws the certification then nothing has been accomplished for the worker or workers. They do not care if the certification is withdrawn. They want higher salaries, shorter working days, etc. In this sense the SA8000 can be said to be a standard working for the workers, but that the workers do not benefit from these rights.

This is an important criticism. The SA8000 is protecting labour rights without the workers. Except from some brief interviews, surveys, etc. the workers are not questioned on the working conditions in the facility. There is no consultation with the workers when implementing the standards and monitoring the standards. It is only through the complaint procedure that they are involved, but then they are not involved in a way that they can influence the decisions or the counter-measures.

The names of the certified companies are published on the website of the SAI. There is however, no publication, and thereby no control, over the companies that have been audited but that did not live up to the necessary labour conditions. Actually there is not much information publicly announced at all on the findings of the audits in general. There is therefore not very much transparency into the processes of the certification.

The SA8000 covers many facilities, but they are really only scratching the surface. Without knowing the exact figures it can be stated that a corporation receives products from a great number of suppliers (e.g. 100). Each of these suppliers has at least a few sub-contractors (e.g. 5). According to this calculation (which is extremely low), there are about 5000 companies involved with just this one company. When you take this into consideration and then the fact that there are only 242 facilities certified then the number does not strike as a very comforting figure. Especially that this only means that there are 242 facilities and not companies that are certified. This indicates to me that either the standards are too hard to live up to or the corporations are just not interested in applying for a certification from the SA8000 since they can get contracts anyway. Either way the impact of it is too small to be a satisfactory argument for the voluntary approach in changing corporate social responsibility.

### 3 Non-Governmental Organisations<sup>132</sup>

A great and important actor when discussing monitoring in the global context is Non-Governmental Organisations (NGOs). NGOs, as is seen in all sub-chapters above, play an important role in the verification and monitoring of corporate activities. Almost all the initiatives above depend on NGOs to be the whistleblowers of corporate behaviour.

NGOs have directed expectations on the companies, in this era of globalisation, even if they are not established in law.<sup>133</sup> These expectations are based on the basic principle that; “... *even if there is no clear legal obligation, TNCs do have an ethical or moral duty to respect fundamental human rights in the countries in which they do business.*”<sup>134</sup>

What these organisations usually do is inspect worksites, conduct interviews with employees and management, conduct tests of e.g. the soil, etc.<sup>135</sup> It is of great advantage if these organisations are at the local level.<sup>136</sup> This is because they know the language, the routines, the culture, etc. of the country and workers subjected to the monitoring. They may even have an easier time earning the trust of the workers and thereby, gathering more sensitive and incriminating information.

For monitoring and verification to be credible it has to be performed by an independent body.<sup>137</sup> In many cases it is difficult to see whether the body conducting the monitoring is independent or not. Here the NGOs play a two-fold role. Firstly, they are again important as whistleblowers if the monitoring body is not independent or not doing its job correctly. Secondly, because of their independent role in society, they are preferred as the monitoring body or at least as an information source to this body. The monitoring body is not always on site and therefore it can be of outmost importance that it has close cooperation with NGOs on site. Here again the important role of NGOs is revealed.

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<sup>132</sup> All the references under this first part of 2.5 (about NGOs) are only examples of where to find the information referred to since this information can be attained at multiple places.

<sup>133</sup> Paddy O’Reilly and Sophia Tickell, “TNCs and Social Issues in the Developing World”, p. 279, in *Human Rights Standards and the Responsibility of Transnational Corporations*, edited by Michael K. Addo.

<sup>134</sup> Paddy O’Reilly and others, p. 279.

<sup>135</sup> BSR Staff, *Independent Monitoring*, p. 1, in the series of BSR White Papers, available at: [www.bsr.org](http://www.bsr.org).

<sup>136</sup> Amnesty International (2000), p. 24; BSR Staff, *Independent Monitoring*, p. 1-2; and Nina Ascoly and Ineke Zeldenrust, *Discussing Key Elements of Monitoring and Verification*, at SOMO: Centre for Research on Multinational Corporations, (2001), available at: [www.somo.nl/monitoring/related/disc-key-elements.htm](http://www.somo.nl/monitoring/related/disc-key-elements.htm).

<sup>137</sup> BSR Staff, *Independent Monitoring*, p. 1.

However, NGOs can play other roles than just as a monitor of corporate behaviour. NGOs can also function as a support to corporations wishing to establish codes of conduct or other procedures or processes dealing with social or ethical issues.<sup>138</sup> It is not always easy for the corporations to know what to include since this is a new area for the businesses to be involved in and they have limited knowledge of the area.

Here is another role for NGOs. They also function as a medium in which the corporations can turn for training and support in understanding the area.<sup>139</sup> Some NGOs have set up training courses and forums in which the businesses and NGOs can meet and discuss. Some also produce brochures and books to help the corporate world understand this new area of business and human rights.<sup>140</sup>

NGOs also function as a representative for individuals and others not able to defend themselves.<sup>141</sup> In some cases there are complaint and appeal possibilities. Usually NGOs are allowed to bring complaints and appeals forward to these bodies. Since many complaints can be sensitive if not even dangerous for the workers or individuals to bring forward, it could be preferable that an NGO brings the case to the institution instead so that e.g. the identity of the complainents are not revealed.

A few NGOs has involved itself more then others in the new area of business and human rights, such as Amnesty International, The Prince of Wales Business Leaders Forum, Corpwatch and Human Rights Watch, to name a few. Amnesty International has e.g. set up Human Rights Principles for Corporations.<sup>142</sup> Since there is no room in this thesis for a complete description of all the NGOs active in human rights and business one has been chosen for a closer look, i.e. Amnesty International.

### 3.1 Case Study – Amnesty International

The mandate of Amnesty International is:

“...to promote the values of the International Declaration of Human Rights and to work worldwide for the release of

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<sup>138</sup> Amnesty International (2000), p 85-86.

<sup>139</sup> For examples of such activities see: homepage of Amnesty International Business Group, [www.amnesty.org.uk](http://www.amnesty.org.uk) or the homepage of Human Rights Watch, [www.humanrightswatch.org](http://www.humanrightswatch.org).

<sup>140</sup> As an example the two publications by Amnesty International (and partners) can be lifted out. Amnesty International (2000) in cooperation with The Prince of Wales Business Leaders Forum and Amnesty International (2001) in cooperation with SNS Förlag.

<sup>141</sup> Clean Clothes Campaign, *Almost everything you always wanted to know about independent monitoring*, p. 12, a report available at: [www.cleanclothes.org/codes/monitoring-long.htm](http://www.cleanclothes.org/codes/monitoring-long.htm).

<sup>142</sup> Amnesty International (2000), p. 127-130; and Amnesty Sweden and others (2001), p. 6+130-133.

prisoners of conscience, for fair trials for political prisoners and an end to torture, extrajudicial executions, 'disappearances' and the death penalty. Amnesty International is independent of any government, political persuasion or religious creed."<sup>143</sup>

Today it is not only the States or the governments in the world that are abusing human rights, but also corporations in using child labour and bonded or forced labour in their production, letting people work under horrifying working conditions and forbidding or making it harder for workers to get involved or set up union activities, etc.<sup>144</sup> It is often that we today hear in the media about human rights abuses made by multinational corporations. It is important that one does not only read about these abuses and then push them aside with the motivation that it does not concern me. Mahatma Gandhi has said that: "*If you want something really important to be done, you must not merely satisfy reason, you must move the heart also.*"<sup>145</sup> Amnesty International has realised how important it is to get multinational corporations involved in human rights in order to widen the respect for human rights and has thereby started its involvement in the issues surrounding human rights and business.

The work by Amnesty International within the business area consists mainly of establishing dialogues with corporations through business groups in country-level sections.<sup>146</sup> It is on the country-level that the work is being done. However, there is a central body, the Business and Economic Relations Network (BERN), which coordinates this country-based work. The biggest country-level business group section is situated in London, UK.<sup>147</sup> Today there are around thirty country-level business group sections established in the world, e.g. in Germany, Ireland, Norway, Paraguay, Spain, Sweden, Thailand, UK, USA, etc.<sup>148</sup>

BERN consists of coordinators and volunteers from the Business Groups or others that are engaged in dialogue with corporations in order to get them to support or get involved in human rights within the sphere of their influence.<sup>149</sup> The mission of BERN is to encourage companies to adopt codes of conduct that point out human rights as a primacy within their activities. They also encourage the companies to adopt policies to implement and integrate human rights within every part of its organisation

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<sup>143</sup> Amnesty International (2000), publication-page; and Amnesty Sweden and others (2001), publications-page.

<sup>144</sup> *Globalt samarbete för mänskliga rättigheter*, available at: [www.amnesty.se/business](http://www.amnesty.se/business).

<sup>145</sup> *Globalt samarbete för mänskliga rättigheter*.

<sup>146</sup> *Why do human rights matter to business?*, available at: [www.amnesty.org](http://www.amnesty.org).

<sup>147</sup> See the homepage at: [www.amnesty.org.uk](http://www.amnesty.org.uk).

<sup>148</sup> For a complete list of countries in which there is a business group section please see: [www.amnesty.org](http://www.amnesty.org), search path: Economic globalization and human rights > further information.

<sup>149</sup> *Business and Economic Relations Network (BERN)*, available at: [www.amnesty.org](http://www.amnesty.org).

and not just within their headquarters. BERN also encourages the companies to verify and assess these codes and policies periodically.

Amnesty International does not write any codes of conduct for the companies, but it has created a set of principles for the corporations to bear in mind when developing a code of conduct for their organisation.<sup>150</sup> These principles also include other international standards, conventions and protocols that apply to companies. Neither does Amnesty International at present provide any training of corporations.<sup>151</sup> This is left to the country-based sections.<sup>152</sup>

So why should human rights matter to business? According to the Business Group of Amnesty International (UK):

*“The global economy offers unprecedented opportunities to business. Transnational companies are investing in and sourcing from an ever-increasing number of emerging markets. These opportunities bring with them serious threats to business – operating in conflict zones, under regimes with a weak rule of law where human rights are violated, where corruption is rife.”<sup>153</sup>*

If there are human rights abuses where the corporations are acting then the investment climate is destabilised.<sup>154</sup> There is a lot at risk for the corporations in such an environment; the safety of the workers, the reputation of the corporation, the company assets, etc. All these risks can mean a great loss in income for the corporations. The corporations must increase their acceptability of the society in general since their influence on the world economy and their impact in the societies in which they operate, is growing. At the core of this acceptability lies the respect for human rights. Without setting firm human rights commitments the corporations are today exposing themselves to a risk of losing money or damaging their reputation.

Since the work is mainly being done by the country sections, the Amnesty International UK Business Group (UK Group) will be used as an example of what the work within the Country Business Groups can look like.<sup>155</sup> The objectives of the UK Group are to encourage companies:

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<sup>150</sup> *Human Rights Principles for Companies*, ACT 70/001/1998.

<sup>151</sup> *Why do human rights matter to business?*.

<sup>152</sup> See e.g. the homepage of the Swedish Business Group: [www.amnesty.se/business](http://www.amnesty.se/business).

<sup>153</sup> *Why do human rights matter to business?*.

<sup>154</sup> Amnesty International and The Prince of Wales Business Leaders Forum (IBLF), *A geography of corporate risk*, a series of seven detailed maps, which shows where human rights abuses and violations are taking place in the world and in which the corporations are at risk of being associated with these abuses and violations. The maps are available at: [www.amnesty.org](http://www.amnesty.org).

<sup>155</sup> The example will only consist of excerpts of the functions and actions of the Amnesty International UK Business Group. For more information regarding their organisation and the work they do, see: [www.amnesty.org.uk/business](http://www.amnesty.org.uk/business).

- To be aware of the human rights impact of all aspects of their operations;
- To use their legitimate influence in support of human rights in all countries in which they operate;
- To give effect to the Universal Declaration of Human Rights;
- To include a specific commitment to human rights in their statements of business principles and codes of conduct;
- To make their human rights policies explicit, ensuring that these are integrated across all functions, monitored and audited.<sup>156</sup>

The UK Group has also adopted a set of guidelines to help corporations confront situations of human rights violations and the potential for such violations.<sup>157</sup> In these they have e.g. set up a checklist of human rights principles, a strategic planning and policy framework, etc.

The UK Group has acknowledged that there is also a need for pension funds trustees and investors to take a more active role in protecting human rights in the world.<sup>158</sup> They have launched a campaign with the purpose of pressuring pension fund trustees and fund managers to incorporate human rights through adopting a set of ethical policies. They have produced a set of guidelines to help the pension funds adopt such policies.<sup>159</sup>

### 3.1.1 Human Rights Principles for Companies

Amnesty International means that it is the multinational corporation's obligation to promote human rights.<sup>160</sup> The reputation and the value of the corporation will depend on how they respond to human rights violations and in what ways they promote and protect such rights. If there are human rights abuses on the location where the corporation is situated then there is a risk for civil instability and then also uncertainty in the investment climate. However, Amnesty International means that even if this was not the case the companies still have a duty not to just witness silently but to take action.

Corporations sometimes state that they should not take action because that could be seen as an offence to the values of other cultures as well as an intrusion in other countries sovereignty.<sup>161</sup> However, there is an evolving international consensus, through the adoption of covenants and agreements, that the promotion and protection of inherent human rights transcends all

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<sup>156</sup> *Objectives of the Business Group*, available at: [www.amnesty.org.uk/business/objectives.shtml](http://www.amnesty.org.uk/business/objectives.shtml).

<sup>157</sup> For more reading about these guidelines see: *Human Rights Guidelines For Corporations*, available at: [www.amnesty.org.uk/business/pubs/hrgc.shtml](http://www.amnesty.org.uk/business/pubs/hrgc.shtml), last visited 2003-06-10.

<sup>158</sup> *Socially Responsible Investment Campaign*, available at: [www.amnesty.org.uk/business/campaigns/sri.shtml](http://www.amnesty.org.uk/business/campaigns/sri.shtml), last visited 2003-06-10.

<sup>159</sup> For more information on the content and purpose of these guidelines see: *Human Rights Guidelines for Pension Fund Trustees*, available at: [www.amnesty.org.uk/business/pubs/hrgp.shtml](http://www.amnesty.org.uk/business/pubs/hrgp.shtml).

<sup>160</sup> *Human Rights Principles For Companies*, p. 1.

<sup>161</sup> *Human Rights Principles For Companies*, p. 1.

national and cultural boundaries. Therefore, Amnesty International has set up an introductory set of human rights principles to help corporations to state their part in human rights violations or assess situations in advance that can transcend into violations.

There are nine principles in the Amnesty International Human Rights Principle for Corporations.<sup>162</sup> These are formed as a checklist for corporations and they all have sources in International Human Rights Standards.<sup>163</sup> The nine principles are: (1) company policy on human rights; (2) security; (3) community engagement; (4) freedom from discrimination; (5) freedom from slavery; (6) health and safety; (7) freedom of association and the right to collective bargaining; (8) fair working conditions; (9) monitoring human rights.<sup>164</sup>

The first principle, on *company policy on human rights*, states that all companies should adopt a policy which should include public support for human rights. It should adopt such procedures within the company to ensure that the human rights principles are integrated into every part of its organisation. It should adopt safeguards to ensure that no employee within its organisation is complicit in human rights abuses and also a procedure to find out exactly its impact on the society in which it operates. It should have good relations and contacts with local, regional and national authorities to enable discussions with them on the importance of safeguarding human rights. They should also adopt training for all its personnel in human rights issues and the threat to human rights.

The second principle, on *security*, states that all companies should secure that the security arrangements that they use are consistent with human rights standards and that the security personnel they hire are adequately trained in these issues. The procedure they adopt should be in compliance with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials. These procedures should also secure that no excessive force is being used, including torture or inhuman and degrading treatment. There should be procedures in place for recalling a contract with a security firm that has been abusing human rights. As soon as there is a complaint that the security forces are abusing human rights the company should directly conduct a thorough and independent investigation of the allegations. If the company itself is the one supplying the military, police or security products and services then they should make sure that these are not misused to commit human rights abuses.

The third principle, on *community engagement*, states that all companies should secure that their activities do not have a negative impact on the

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<sup>162</sup> *Human Rights Principles For Companies*, p. 4-5. Can also be found in Amnesty International (2000), p. 127.

<sup>163</sup> *Human Rights Principles For Companies*, p. 5-8.

<sup>164</sup> *Human Rights Principles For Companies*, p. 4-5.

community in which they operate. They should hold discussions and meeting with the local leaders and authorities to discuss their role and impact in the community. It should also support organisations that promote human rights.

The fourth principle, on *freedom from discrimination*, states that all companies should ensure that its practices and procedures regarding e.g. recruitment, promotion, customer relations, working conditions, etc. do not amount to discrimination on any ground. The company should also set up procedures so that sexual or racial harassment is avoided as well as prohibiting acts of national, ethical or religious hatred.

The fifth principle, on *freedom from slavery*, states that all companies should ensure that they do not use forced or bonded labour, child labour, chattel slaves, coerced prison labour, etc., through adopting policies and practices to prohibit such abuses. They should also secure that suppliers, partners or contractors do not use such labour either.

The sixth principle, on *health and security*, states that all companies should ensure that all their policies and practices secure safe and healthy working environments. They should not engage in any kind of punishing treatment, such as mental or physical coercion or verbal abuse, etc.

The seventh principle, on *freedom of association and the right to collective bargaining*, states that all companies should make sure that its personnel can freely practice their rights to freedom of expression, peaceful assembly and association and the right to bargain collectively. The companies should ensure this even if the national laws do not. They should also make sure that their suppliers, partners or contractors do not infringe on these rights either.

The eighth principle, on *fair working conditions*, states that all companies should secure that they have just working conditions, a secure working environment, fair and adequate remuneration, etc. This should at least include that the company secures that the workers and their families can have an adequate living standard. They should also secure that their suppliers, partners or contractors does not infringe these rights.

The ninth principle, on *monitoring human rights*, states that all companies should establish a mechanism in which all their operations are monitored if they comply with the set code of conduct and international human rights standards in general. This monitoring should be credible and reported on periodically. There should also be room and opportunity for interested parties (stakeholders) to comment on the monitoring and also that their opinions are dealt with in an accurate way.

## **3.2 Analysis**

There are many reasons for the development of social responsibility concerning corporations. Even if it cannot be singled out as the most

important the pressure by NGOs on the multinational corporations must at least be placed as one of the most important factors. It is hard to imagine that we would be where we are today without the pressure NGOs have put and continue to put on corporations and without the adverse publicity that this pressure has generated through the improvements in communication technologies.

Independent monitoring is usually performed by NGOs or at least with the help of NGOs. It is only logical because if the verification of a plant in Venezuela was made by a Monitoring body in Germany then it would be very difficult for that Monitoring Body to know the current situation. They can conduct visits and interviews but these do not necessarily have to show the true picture since there is a great risk that what they see is only a charade set up for the investigators by the corporation to cover up the dire conditions of that plant. It could also be so that the corporation or the government has scared the workers into silence through threats or violence. The use of a local NGO is here of outmost importance. This is due to the fact that NGOs usually have a better overview of what the situation really looks like, that they speak the same language as the employees, the managers and the directors and probably can gain the trust of employees easier.

The question whether NGOs are important in the area of social responsibility is quite unnecessary since the answer is quite evident. NGOs play, and one could believe that they will always play, an important part in the area of monitoring. The society will always be dependent on them to expose the human rights abuses in the world, but are we maybe relying on them too much? Is there not a need to find another solution as well for the monitoring of TNCs? As the awareness of consumers and other stakeholders grows so does the demand for monitoring of corporations' actions so that their activities comply with international human rights standards. There is an ocean of corporations out there and even if they wanted to NGOs do not have the capacity nor the time to monitor them all. NGOs are usually non-profit organisations relying on individual voluntarism. They do not have the resources nor the competence to carry this burden on their own. We must try to find an alternative way to "flush out" the bad behaviour of corporations. Even NGOs themselves have said that they do not have the resources to be everywhere at the same time.

Another issue that is worth raising is the unquestionable faith that we put in NGOs. NGOs make mistakes just like everybody else and now and then we hear about them in the media. The public does have a right to question the ethical basis that NGOs claim to stand on. Although what it all comes down to is that even if NGOs make mistakes they are a force for good and that in most cases they are aware of their responsibilities in society at large. They fill an important role as a counter-voice to military, public services, governments, corporations and trade unions and also help keep the balance between all different actors in society.

Even if they are very important for society they do, however, have to stand accountable. Today NGOs have great power. When they blow the whistle on a company everyone will listen. Even if the allegations turn out to be false the damage to the reputation and the financial loss of the company is already a fact. So how do we measure the *due diligence* regarding why the company was targeted? And who has the responsibility for the people that suffer because of NGO actions? If the allegations are true and the corporation actually is breaching human rights then the responsibility should be put on them, but if the NGO was too quick and did not have evidence or information to make that kind of an accusation – who is responsible for the people then? One way of making NGOs accountable is through NGO codes of conduct. Although it is a very interesting discussion it is a topic which is too large for this thesis and will therefore be left out.

Regarding the monitoring and auditing of corporate actions there is another problem regarding NGOs. They are usually not trained and competent enough to conduct an audit and regarding the local NGOs the situation is usually worse since they have even less qualified auditors than the national NGOs have. However, they do usually have great knowledge in social contacts and how to interview and attain the most information that way. The audit process can be split into two parts. The first part is the more technical one, the audit of the corporate finances, their papers and interviews with management. To do this there is a need for professional knowledge within the relevant field. Not many NGOs have this knowledge. The other part of the audit consists of investigations of the plants and interviews with the employees which is an area that NGOs are very knowledgeable in. This is therefore a role which they can take in the audit of corporations. There is, in my view, a need for a good co-operation between professional auditing bureaus and local, regional or national NGOs to make the audit as relevant and credible as possible. In using two different bodies for the audit you can also increase the value of the audit since there is a larger chance that at least one of the two are independent from the corporation.

NGOs also play an important part in training and education. The role they take as a support to the corporations is a very important step in moving the corporations closer to social responsibility. Many corporations do not even understand what they are supposed to do let alone the concept of human rights. Therefore, there is a great need to educate the corporations in human rights law and to bring the discussions around human rights to a level and a language that businesses can understand. This is something that NGOs like Amnesty International are very used to doing and are very good at. It is through education that we will get a result that lasts. The corporations need to be informed and trained in why their behaviour is not accepted and not just be told that it is. This means that one cannot only pressure the corporations into doing something but must also try to help them understand why they should not perform in this way. To do this one needs to raise the awareness in the corporations and this is best done through education. NGOs are best suited to conduct this education and training.

Since we have too many differencing corporate codes of conduct in the world today it is not possible for the consumer to compare them against each other or to assess their value. There is a need for consensus and thereby also a need for someone to show the corporations the way. NGOs function as support to many corporations in their process of setting up e.g. codes of conduct. It is important to support and help the corporations to adopt codes of conduct that work and are not merely a publicity exercise. Many corporations stop there. They do not understand that the key to a credible and effective code of conduct is the processes and procedures they set up to integrate the codes into their day-to-day business. That there is a need for internal and external mechanisms to deal with the monitoring of their activities. An NGO can help them here. And it is in all our interests that the corporations understand this and try to integrate the principles, since that means that they will try to improve the human rights situation in the areas in which they operate. Sometimes it is even the corporations themselves that needs help and protection. They need to set up principles and procedures to protect them from human rights abuses made by their suppliers, partners and contractors since these actions might bring them down in the fall. Many lessons can be learnt from the experience within the financial sector, but many issues are also different between finance and human rights. Therefore, the corporations might need help from NGOs to do this.

The principles set up by Amnesty International are a good example on the kind of help that NGOs can provide to the corporations. What Amnesty has done is to state the basic human rights issues that a corporation should deal with in their codes of conduct in order for it to be more than a public expression exercise.

Within the business world today the codes of conduct mostly contain labour rights. However, the area in which the corporation risks damage to its reputation stretches so much further than that. It includes areas such as general human rights, environmental rights, etc. The corporations are usually not aware that their responsibilities also stretches over these areas and are therefore in grave danger of having their reputation damaged. This can, of course, be said to be a good thing since they would hopefully not get a bad reputation if they did not abuse any human rights. However, if they are not aware that these areas are included within their responsibilities then they cannot do anything to better the situation within these areas either. I do not think that the corporations are becoming global citizens out of the goodness of their hearts, but simply because it is starting to make business sense and it is an investment that probably will pay off in the long run. Therefore, I think the corporations will not act before they understand that this is an area that can hurt them and cost them a lot of money. This shows the need for NGOs to educate and support the companies in their struggle to become better global citizens. The principles brought out by Amnesty are all areas in which corporations risk damage to their reputation if not attended to properly. It is a start and something for the corporations to use as help.

The Amnesty Principles are all based on International Human Rights Standards. This means that they have great support in the already existing international framework. They are merely a checklist of what the corporations should think about when dealing with human rights issues. This makes it a lot easier for Amnesty to argue in favour of adopting these principles since the ground support is already there in the form of universal consensus. They are very clear and detailed and thus making it a great deal easier for the corporations to understand and apply them.

Another issue is whether it is appropriate that Amnesty is involved with businesses in the first place. Many members mean that this could jeopardise the reputation of Amnesty International as an independent NGO. Some have also argued that it is not within the mandate of Amnesty to get involved in issues surrounding businesses. Both these statements could be true. Businesses could use the name and cooperation with Amnesty to cover up their human rights abuses, i.e. "orange washing". This is very serious especially since the role of NGOs as a counter voice to all other actors is so important in the social responsibility issues. There is also a clear conflict of interest here. The NGOs are working with the objects which they are supposed to target and monitor. However, the question can also be turned around and show that instead of accusing the corporations for abuses they are helping them in advance to avoid them. Is it not better that we stop the abuses before they occur then after? Through discussions and the sharing of experiences they are influencing corporations to do good. Maybe even pressuring them to do risk evaluations in advance and thereby detecting the human rights abuses. This could lead to a situation in which the corporations might not want to start a business in a human rights abusing environment and this in its turn can lead to a change since these countries, areas or regions usually cannot afford to lose business and that if they must have better human rights policies to attract corporations then this is what they will do.

Amnesty does not perform any direct verification, act as consultants or certify the corporations with whom they are working. They reserve the right to criticise any corporation whether it is someone they are cooperating with or not. NGOs hold a lot of information that is very important in the discussions surrounding business and human rights and so do the businesses. Without the two parties co-operating it will be very difficult to find a solution that fits all. When discussing these topics it is very easy to get stuck in one way of thinking if you are not exposed to the views of other actors commentating on the same thing but with a totally different view. The problem of corporate social responsibility cannot be solved without the participation of all actors. Therefore, I think that it is important that the NGOs do get involved in discussions and other meetings with the corporations or a solution that will work in the long run will be hard.

Amnesty has been very successful in its work with businesses. They have set up training courses, written books and handbooks on the subject of business and human rights, worked as support for companies, set up

guidelines to help corporations to develop corporate codes of conduct, etc. We can only hope that they will continue this work.

I want to end this analysis with words from our UN Secretary-General, Mr. Kofi Annan;

*“...let us unite the power of markets with the authority of universal ideals. Let us choose to reconcile the creative forces of private entrepreneurship with the needs of the disadvantaged and the requirements of future generations.”*

## 4 Corporate Codes of Conduct

Corporate Codes of Conduct (Cocos) represent a form of “soft law” because they lack any form of legal enforcement and are generally dependent on the corporations own moral commitment and a strong organized public pressure to encourage compliance.<sup>165</sup> Cocos do not have any authorized definition.<sup>166</sup>

Many corporations are reluctant to establish Cocos.<sup>167</sup> This is mainly due to the following reasons: first, they see the codes as laying the groundwork towards legal regulation of business activities. Therefore, some business executives see Cocos as emerging laws and they object to the vague formulations which open the possibility to manipulate. Secondly, the corporations see the Cocos as a means for setting weapons against them in the hands of critics. They are afraid that corporate critics will use the codes as a means to attack specific corporate actions and thereby damage their reputation and image. Thirdly, they just do not view the codes as necessary.<sup>168</sup> They do not see Cocos as a means or opportunity to improve their performance in other countries within issues, such as labour, environment or human rights, but simply as a necessary evil and an inconvenient nuisance, which should be taken care of with minimum efforts and costs. This has led to a low credibility of Cocos amongst stakeholders, political parties and even within the business community itself.

The corporation’s responses to the public criticism and concern against them in the past can best be described as a “...flood of public relations rhetoric designed to assuage the public’s feelings through statements of commitment that are invariably short on specifics and long on generalities, magnanimous in promises and stingy in accomplishments.”<sup>169</sup> The failure of this strategy has become more and more evident to many corporations and they are now starting to adopt at least a minimum set of standards for corporate behaviour in the form of Cocos. However, in most cases they are still nothing else then a public relations exercise.

### 4.1 Why adopt Codes of Conduct?

There are multiple reasons for *why* corporations adopt Cocos and what their contents are. There are just as many ways for companies to implement the Cocos when they are finally adopted.<sup>170</sup> Some companies develop Cocos as a response to a damaging event that has occurred and to stop such an event

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<sup>165</sup> John M. Kline, “Business Codes and Conduct in a Global Political Economy”, p. 41, in *Global Codes of Conduct – An Idea Whose Time Has Come*, ed. by Oliver F. Williams, published in 2000 by University of Notre Dame Press, Notre Dame, Indiana.

<sup>166</sup> John M. Kline, p. 41.

<sup>167</sup> John M. Kline (2000), p. 42.

<sup>168</sup> S. Prakash Sethi (2003), p. 84.

<sup>169</sup> S. Prakash Sethi, p. 45.

<sup>170</sup> Amnesty (2000), p. 82.

from re-occurring. As an example the NatWest's code *It's good business* can be mentioned. It was developed as a response to a damaging event in which a subsidiary was criticised for how a take over was conducted (referred to as the Blue Arrow Affair).<sup>171</sup>

Other companies have set up their Cocos as a response to the pressure of the public and as a protection to themselves.<sup>172</sup> A company's brand value and reputation are among their most valuable assets. Increasingly, the companies are being held accountable for everything that happens all through the supply chain. They have realised the commercial importance of educating and informing their workers and management by setting out guidelines of how to react when dealing with situations not yet dealt with within the company policies, i.e. surrounding human rights issues. In this way they set a principle that is to be used by all employees around the whole world and this means that there will be more consistency in how the corporation acts. This will in its turn lead to better reputation and trustworthiness. It will help the corporation avoid adverse publicity, consumer boycotts, shareholder resolutions and other undesirable impacts. It will also help them in choosing, evaluating and sustaining relationships with business partners that are likely to be better long-term partners.

Another reason for setting up Cocos is to establish what the company's moral and legal responsibilities are.<sup>173</sup> Where there are international human rights standards the issue of responsibilities is less difficult to make out. The problems start when the national legislation or practices in the countries where the company operates are incompatible with human rights standards or that their legislation is not enforced at all. Here Cocos serve as a help to the staff and management in knowing how to react and also how the corporation wishes them to act in this given situation as well as what their responsibilities are.

Another reason is that today many companies have started to think that a well developed and implemented code of conduct can help increase the quality and productivity within their productions.<sup>174</sup> The rights included in the Cocos help to create a better climate at the workplaces and that can help the quality of the production as well as greater productivity. If the workers trust the corporation they are working for and are happy and feel that they are safe then they work better and care more about what they are doing, thus creating higher productivity and quality.

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<sup>171</sup> Amnesty (2000), p. 82; and Simon Webley, p. 108.

<sup>172</sup> Amnesty (2000), p. 82-83; BSR Staff, *Codes of Conduct*, p. 1-2; Jill Murray, *Corporate Codes of Conduct*, p. 20, available at: [www.itcilo.it/english/actrav/tlearn/global/ilo/code/main.htm](http://www.itcilo.it/english/actrav/tlearn/global/ilo/code/main.htm); and Simon Webley, p. 108.

<sup>173</sup> Amnesty (2000), p. 83; BSR Staff, *Codes of Conduct*, p. 1; Jill Murray, p. 20.

<sup>174</sup> BSR Staff, *Codes of Conduct*, p. 2; and Jill Murray, p. 20.

## 4.2 What are the contents of the codes and how should they be implemented?

There is no general or global standard for what the Cocos should consist of. It may vary from industry to industry, from country to country and from culture to culture, etc.<sup>175</sup> South Africa is a good example in which geography is the key reason for how the codes are formed. The companies dealing in or working with others in South Africa have Cocos that are shaped by the general international condemnation of apartheid.<sup>176</sup> Since there are no global standards on which the Cocos are based it is not possible to define what the Cocos contents are. It is merely the general principles and standards upon which most are built that can be outlined in this chapter.

There are basically two different approaches that the companies can choose between in regard to Cocos;<sup>177</sup> the first is a group approach in which a number of companies, either in a region or an industry, together develops a common set of principles and guidelines that is to be followed by all members of this group. This approach is very popular since working as a group gives the corporations a measure of protection in dealing with critics. The second approach is for the companies to individually set Cocos that applies only to that corporation and its partners.

In developing a code the company can access a variety of sources for inspiration and guidance. It ranges from local laws to internationally accepted standards such as the Universal Declaration of Human Rights.<sup>178</sup> The options consist of among others:

- **Internationally-Accepted Standards:** There are many sources of established international law that the corporations can turn to for guidance today; basic human rights standards contained in e.g. UDHR, or labour standards in ILO Conventions.
- **Relevant Legal Standards:** It is usually included in the codes that the company should apply full compliance with all relevant laws regarding e.g. labour rights, i.e. to follow the regulations on wages, benefits and working hours, etc.
- **Consensus Standards:** There are consensus standards set up by coalitions of companies and sometimes also stakeholder groups that are available for the companies to follow. An example of such a standard is the Apparel Industry Partnership.

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<sup>175</sup> Jill Murray, p. 20.

<sup>176</sup> Jill Murray, p. 20.

<sup>177</sup> S. Prakash Sethi (2003), p. 84-85.

<sup>178</sup> BSR Staff, *Codes of Conduct*, p. 4-5.

- **NGO Standards:** There are some NGOs, both religious and human rights groups, which have set up guidelines for the businesses to follow when developing Cocos. An example of such a guideline is the Amnesty International Human Rights Principles for Companies.

It is impossible to say how much inspiration the companies gather from each source. However, it is usually so that the corporations Cocos concentrate on labour rights.<sup>179</sup> There is also usually recognition of UDHR in them. In the **Conference Board questionnaire** in 1991<sup>180</sup> 13 areas were found to usually be dealt with in the corporate codes. Most of the codes included some kind of a formal statement on the company's fundamental principles. Nine specific issues were named in 66 of the Cocos and among these nine, six related in some degree to the employees contact with the company. The thirteen areas mentioned before were; fundamental guiding principles, purchasing, proprietary responsibility, workplace safety, environmental responsibility, marketing, intellectual property, confidentiality of employee records, product safety, employee privacy, drug-related issues, technological innovation and AIDS.

According to another survey from 1996 by **KPMG**<sup>181</sup> in which the corporations were asked to score for importance seven issue areas within Cocos. The seven were ranked in the following order (according to an average index); employee and workplace issues and handling company assets were placed as a split number one, then came customer relations, relations with competitors, relations with suppliers, conflict of interest and then external relationships. (In that order).

On the surface many Cocos look the same. It is only through the implementation and institutionalising that one code can be set apart from the rest. Business for Social Responsibility, BSR<sup>182</sup>, has set up few issues which can contribute to the implementation of the Cocos; (a) *that they cover all relevant and important issues* which can vary in different sectors, company standards, etc.; (b) *uses language that reflects the company's intentions with regard to enforcement* by banning certain practices on which it is obvious that established international principles are applied and using less harsh language on those standards that the company wants to have more flexibility

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<sup>179</sup> ILO, *Corporate Codes of Conduct*, p. 7, available at:

[www.itcilo.it/english/actrav/telearn/global/ilo/code/main.htm](http://www.itcilo.it/english/actrav/telearn/global/ilo/code/main.htm).

<sup>180</sup> The Conference Board is a not-for-profit, non-advocacy business membership and research organisation, connecting senior executives from more than 2300 enterprises in over 60 corporations. The questionnaire was sent out to 1900 corporations in USA, Canada and Europe. 200 code companies responded. More information on the Conference Board and their questionnaire can be found on: [www.conference-board.org](http://www.conference-board.org).

<sup>181</sup> KPMG is the abbreviations for the names of its funders; Klynveld, Peat, Marwick and Goerdeler. It is a business services firm that operates in 155 countries. The KPMG surveyed 1000 Canadian companies, but only 251 responded. For more information about KPMG and the survey of 1996, see: KPMG, 1997 Business Ethics Survey Report, available at: [www.kpmg.org](http://www.kpmg.org).

<sup>182</sup> For more information of this organisation, see: [www.bsr.org](http://www.bsr.org).

on; (c) *has been crafted with the involvement and support of key company managers* because the managements are needed in order to get an effective implementation; (d) *is communicated clearly both internally and externally* which is essential in clarifying the provisions of the code and their importance; and (e) *includes staffing plans and implementation efforts* to ensure good enforcement mechanisms which is what separates the real Cocos from the public relations exercises.<sup>183</sup>

But most important of all is that the Cocos are creditable. In order to attain credibility the corporations must connect both internal and external monitoring to their Cocos.<sup>184</sup>

### 4.3 Monitoring the codes

The Cocos practiced today by the different corporations lack credibility because the whole process surrounding them are secret and not at all transparent.<sup>185</sup> Most companies refuse to have their codes externally monitored, verified or publicly disclosed. They mean that the public and other stakeholders should have trust in what the corporations are saying that they are doing in regard to complying with the Cocos. The question one must ask is then; if the corporations have nothing to hide and everything to gain from showing the public their performance (if they are following the codes as they say they are) then why are they not doing this?

In order for a monitoring to be effective these criteria should be fulfilled;<sup>186</sup> *transparency* – the information contained in the monitoring should be publicly accessible. Otherwise we would have to believe what the company is saying and that would be naïve. *Quality* – there must be a specification of what material must be collected and how this material should be collected in order to ensure the quality. If the information is incorrect or insufficient then it is not possible to make a quality check on the implementation of the codes. *Feasibility* – any system that is developed on paper must be feasible to all actors involved in the system. If it is not then it will not work. There is therefore a need to assess who the stakeholders are and what their needs are.

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<sup>183</sup> BSR staff, *Codes of Conduct*, p. 5-6. These were also some of the findings in a paper drawn up by the Centre for Research on Multinational Corporations (SOMO) and the International Secretariat of the Clean Clothes Campaign (CCC). The Project was called “European Initiatives on Monitoring and Codes of Conduct in the Garment and Sportswear Industry”. The aim of the project was to take five initiatives in different countries in Europe and then from the experiences of these five initiatives draw up the key elements to monitoring and verifications systems and how they can function best. The five countries in which the initiatives took place were; the Netherlands, Sweden, UK, France and Switzerland. An overview of the findings can be found in a paper by Nina Ascoly and others.

<sup>184</sup> Maquila Solidarity Network, *Voluntary Codes of Conduct – Do They Strengthen or Undermine Government Regulation and Worker Organizing?*, p. 1, available at: [www.maquilasolidarity.org/resources/codes/volcodes99.htm](http://www.maquilasolidarity.org/resources/codes/volcodes99.htm); and S. Prakash Sethi (2003), p. 82; Amnesty (2000); etc.

<sup>185</sup> S. Prakash Sethi (2003), p. 84.

<sup>186</sup> Clean Clothes Campaign, p. 13.

### 4.3.1 Internal Monitoring

Internal monitoring consists of “...*the review made by company personnel of standards of conduct governing fair labour practices and human rights.*”<sup>187</sup> There is about as many practices for internal monitoring as it is a variation of Cocos. However, there is an evolving consensus on the overall areas that should be included in an internal monitoring program for Cocos and this will be dealt with below.

After setting up their Cocos the corporation’s next step should be to create a human rights policy unit that will deal with these issues in a systematic manner.<sup>188</sup> It is not the name but the function of this unit that is important, i.e. that it deals with the internal monitoring of the company Cocos. In order to be effective it is recommended that the unit deals with three issues; *impact assessment, monitoring and trouble-shooting.*<sup>189</sup> Important to note here is that this is merely recommendations for what this unit should be working with and not based on experience of such units within companies. In most cases it does not even exist any unit but consists merely of a staff member conducting this service or none at all.

*Impact assessment* means that the unit: (i) assesses the impact that the corporations operations will have on the populations right in their area of operating; (ii) assesses in which areas a conflict could arise between the company and the local politicians; (iii) gives recommendations on how the company can become more efficient in dealing with human rights, etc.

*Monitoring* consists of two levels: (i) pre-emptive monitoring – that the unit should in advance try to anticipate what changes to human rights can come from a change in a States political environment and if the corporations changes or expands its operations in the relevant area; and (ii) operational monitoring – monitor the compliance of the standards of the company and their suppliers, partners, etc. and then recommend amendments to better this performance.

*Trouble-shooting* consists of the handling of complaints on the companies conduct abroad by employees, NGOs etc. There must be a routine set up to examine and deal with these complaints.

In the description of what a human rights unit would deal with there were only general topics discussed but no specifics of what internal monitoring actually consists of. Internal monitoring typically involves four types of activities: (1) visually inspecting workplaces; (2) interviewing management

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<sup>187</sup> BSR Staff, *Internal Monitoring*, p. 1, included in the BSR White Paper series, available at: [www.bsr.org](http://www.bsr.org), last visited 2003-03-20.

<sup>188</sup> Margaret Jungk, “A Practical Guide to Addressing Human Rights Concerns for Companies Operating Abroad”, p. 171-183, in *Human Rights Standards and the Responsibility of Transnational Corporations*, edited by Michael K. Addo, 1999.

<sup>189</sup> Margaret Jungk, p. 183-185.

to understand workplace policies and practices; (3) reviewing wage, hour, age and other records; and (4) interviewing workers to verify workplace policies and practices.<sup>190</sup> This work is usually performed by specially educated staff or within a specially established unit that only deals with these issues.

There is an evolving consensus between the corporations involved in internal monitoring on what an internal monitoring program should include in order to be comprehensive.<sup>191</sup> The program should: (a) *set clear guidelines and standards for business behaviour* since the codes then are easier to monitor effectively; (b) *communicate clearly, both internally and externally* in order to clarify the company's expectations and to show the importance of compliance to its partners; (c) *commit company staff to monitoring activities* so that someone is responsible for the internal monitoring; (d) *perform regular factory monitoring* which allows the companies to review if the companies are following the codes and if not what to do with the non-compliance; (e) *train company monitors* to enhance staff monitoring skills; (f) *develop a monitoring tool kit* which will provide the monitors with important guidance and information that will be useful when conducting their thorough visits; and (g) *establish follow-up procedures* to enhance the effectivity of the internal monitoring and to show the needs for further developments.

An example of a company's internal monitoring program will be given to sum up this chapter.<sup>192</sup> **Gap Inc.** is one of the corporations that are most often mentioned in the media. They have created an internal monitoring system based on monitoring being conducted at the spot. It consist of the appointment of vendon compliance officer that are positioned in the different countries in which Gap has production. These officer's duties includes overseeing and sometimes even conducting the internal monitoring for Gap Inc. They are usually locals that know the spoken language and has knowledge of the local culture. How well they are working is not clear but at least we know that they are still figuring in the press which could indicate they are not working so well?

### 4.3.2 External Monitoring

External monitoring consist of “...*the verification by for-profit firms of workplace compliance with standards of conduct governing fair labour practices and human rights.*”<sup>193</sup> The corporations, that appoints these firms,

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<sup>190</sup> BSR Staff, *Internal Monitoring*, p. 1.

<sup>191</sup> BSR Staff, *Internal Monitoring*, p. 4-5.

<sup>192</sup> BSR Staff, *Internal Monitoring*, p. 6. For statistics on the number of companies that have a system of internal monitoring or anything like it, see KPMG survey from 1996 and the US Department of Labour survey from 1996.

<sup>193</sup> BSR staff, *External Monitoring*, p. 1, included in the BSR white paper series, available at: [www.bsr.org](http://www.bsr.org).

likes to call this 'independent monitoring'.<sup>194</sup> However, this is not the case. The results of the monitoring collected by the external monitoring body is only available to the company itself and it is totally up to the company to decide what they will do with the information. This is not independent monitoring since that must comprise of an element of public access to the information.

External monitoring typically involves (like with internal monitoring): (1) visually inspecting workplaces for health and safety violations; (2) interviewing management to understand workplace policies and practices; (3) reviewing wage, hour, age and other records for completeness and accuracy; and (4) interviewing workers to verify workplace policies and practices.<sup>195</sup>

Corporations usually use external monitoring as a means of measuring compliance with their codes from an "outside" party.<sup>196</sup> This is by many viewed as a more credible review than the one made by the corporation itself. Especially if it is a plant in which the corporation has any kind of production.

The corporations must be somewhat cautious in fully applying and trusting the external assurance, provided to them by the external monitoring firms, especially regarding their business partners full compliance with the codes. This is because there are certain factors that may influence the effectiveness of the external monitoring.<sup>197</sup> These factors could be; that the monitoring body is inexperienced in interviewing workers on sensitive issues, they may not be educated enough to conduct the audit professionally, etc.

To ensure that the monitoring bodies are working effectively the following steps can be taken by the company engaged in external monitoring: (a) *develop specific objectives* to specify the task of the external monitoring body; (b) *conduct due diligence review* by asking the monitoring firms to submit what their qualifications and proposals are; (c) *integrate with internal compliance efforts* by asking the monitoring body to tailor their practices and tools so that they are consistent with the company's standards, practices and philosophies; (d) *require full reporting* which means that the monitoring body should report all and any information they have stumbled upon and then especially regarding instances of non-compliance; (e) *guaranteed access* from all the company's contractors in order to get an effective monitoring; and (g) *conduct quality reviews* periodically to provide greater confidence in the monitoring and that the monitoring is following the expectations.

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<sup>194</sup> Clean Clothes Campaign's, chapter 2, p. 9.

<sup>195</sup> BSR staff, *External Monitoring*, p. 1.

<sup>196</sup> BSR staff, *External Monitoring*, p. 1.

<sup>197</sup> BSR staff, *External Monitoring*, p. 4.

An example of a case of external monitoring is Nike and its implementation of its Cocos.<sup>198</sup> Nike has appointed Ernst & Young to perform the external audits of the Nike performance.<sup>199</sup> Ernst & Young's mission is to make independent unannounced audits at Nike plants, to research any complaints made and to make payroll audits. This has been done in Indonesia and China. However, there is little information about the contents of the findings by Ernst & Young in these places since the only accessible information is the information that has been released in Nike's public relations statements. Without independent monitoring it is impossible to know whether or not Nike is following their Cocos. However, labour groups have found many examples of supposed breaches by Nike. Some examples are; Nike claims that workers in their factories in Vietnam can earn up to three times as much in wage then the state-run factories – Vietnam Labour Watch<sup>200</sup> found in 1996 that a full-time employee at Nike earned \$25 while the average pay in Vietnam at that time was \$35. Another example was that in June 1996 the Vietnam Labour Watch found that child labour was used in the production of Nike soccer balls, etc.

### 4.3.3 Independent Monitoring

If the goal is to connect credibility to the reports, performance statements etc. of the corporation's activities then it is important if not a necessary that the corporation allows independent monitoring of its performance and actions.<sup>201</sup> It is also a way for the corporations to prove that they are doing what they are saying that they are. Furthermore, it serves as an evaluation of the internal and external monitoring mechanisms set up by the corporations.

So what is independent monitoring? There is today a struggle concerning the definition of independent monitoring and on who that has the right to be called an independent monitor.<sup>202</sup> The problem today is that this, accounting, auditing and consulting, has become a business which many firms are interested in getting involved in. This does not mean that these firms are the best suited for the monitoring assignment and their independence towards the companies can in many cases even be questioned.<sup>203</sup> They are very well suited to deal with the pages of figures, to analyze data and to check for quantifiable code violations but less competent to detect human rights violations in the workplace, violations of freedom of association, harassments, etc. This is better performed by local NGOs. New York Times highlighted the topic in an editorial from 1997:

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<sup>198</sup> Clean Clothes Campaign's, chapter 2, p. 9-10; and BSR staff, *External Monitoring*, p. 5.

<sup>199</sup> Clean Clothes Campaign's, chapter 2, p. 9-10.

<sup>200</sup> Clean Clothes Campaign's, chapter 2, p. 10 and chapter 3, p. 22.

<sup>201</sup> Clean Clothes Campaign's, chapter 2; Maquilla Solidarity; and BSR staff, *Independent Monitoring*.

<sup>202</sup> David M. Schilling, "Making Codes of Conduct Credible – The Role of Independent Monitoring", p. 232, in *Global Codes of Conduct – An Idea Whose Time Has Come*, edited by Oliver F. Williams.

<sup>203</sup> David M. Schilling, p. 232.

*“The sneaker manufacturer Nike recently sent a civil right leader and former United Nations representative, Andrew Young, to tour some of its factories in Asia. Mr. Young surely had the best of intentions, but his report, which concluded that Nike had done “good job”, revealed the problems with this kind of monitoring. **His factory visits were mainly scheduled in advance and done with Nike’s own translators.** The better way is local, truly independent monitors who speak the language, can make unannounced visits and enjoy the trust of a largely young, female, vulnerable work force.”<sup>204</sup>*

BSR has defined independent monitoring as “...*the verification of work site compliance by not-for-profit or non-governmental organizations (NGOs) with standards of conduct governing fair labour practices and human rights.*”<sup>205</sup>

Independent monitoring usually involves, like internal and external monitoring: (1) inspection of work sites; (2) interviews with workers and management; and (3) reviewing of employee records to ensure such compliance is met where goods are grown, manufactured or processed.<sup>206</sup>

Independent monitoring is in its initial stages and not many examples have been presented yet.<sup>207</sup> Therefore, the only lessons to learn from are from initial experiences where the involved participants usually are involved in this kind of activity for the first time. The following issues should be considered by the companies when using independent monitoring: (a) *identify project objectives* which means that the corporations must identify the reasons why they are using independent monitoring; (b) *identify NGO monitors* is very important in finding the right NGOs for every project. This is problematic since in many countries the NGOs have been able to operate without governmental interference and then there are not any records of the NGOs there are and what their specialties are; (c) *determine monitoring protocols* should be done in advance. Included in this is that the scope and frequency of the monitoring should be set; (d) *train/educate monitors* in the code applied by the company involved in the project; and (e) *ensure ongoing communication* between all involved and all interested parties to the monitoring in order to avoid misunderstandings and to address those issues that are needed to be addressed.<sup>208</sup>

The most experiments of independent monitoring being conducted by local human rights groups have been conducted in Central America.<sup>209</sup> One example is: the monitoring by Independent Monitoring Working Group (IMWG) at the Mandarin International garment factory in the San Marcos

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<sup>204</sup> Emphasis added by the author. New York Times, Editorial, *Watching the Sweatshops*, August 20, 1997.

<sup>205</sup> BSR staff, *Independent Monitoring*, p. 1.

<sup>206</sup> BSR staff, *Independent Monitoring*, p. 1.

<sup>207</sup> BSR staff, *Independent Monitoring*, p. 4.

<sup>208</sup> BSR staff, *Independent Monitoring*, p. 5.

<sup>209</sup> Maquila Solidarity, p. 3-6.

Free Trade Zone in El Salvador of violations to the Gap Inc.'s Coco.<sup>210</sup> IMWG is the outcome of a meeting between Gap, the National Labour Committee and several religious leaders on December 15, 1995.<sup>211</sup> The outcome of this meeting was that Gap agreed that an independent monitoring group were to be founded and that they should conduct independent monitoring of the Mandarin facility. This working group was formed by Gap, the Interfaith Center On Corporate Responsibility, Business for Social Responsibility, and the National Labour Committee.

The main achievements by this Mandarin monitoring project were that: (i) 75 workers were reinstated (300 workers had before been fired because they supported a union-organising drive); (ii) there were concrete improvements in the working conditions at the workplace; and (iii) a concrete agreement with Gap that they would continue production at the Mandarin facility and (at least for a short period of time) increase its orders from the plant so that more workers could be reinstated.<sup>212</sup>

Mark Anner, former coordinator for the monitoring project, stated, when asked what the concrete improvements for the workers were at the facility because of the monitoring:

*“Before monitoring, there wasn’t proper drinking water. Locks were put on the bathroom doors, women had to ask permission to go to the bathroom, and their visits were timed. An ex-military colonel was in charge of personnel and he ran the factory like a military barracks. There were problems with forced overtime and poor ventilation. Women had to present a pregnancy test to get a job. Since the agreement, the worst of those violations have been rectified. The colonel has been removed from the factory. The locks have been taken off the bathroom doors, and the women do not have to sign up to go to the bathroom. The company has put in proper water coolers. Women aren’t required to present pregnancy tests, nor are they forced to work overtime.”<sup>213</sup>*

## 4.4 Analysis

While the corporations are increasing their activities in all the corners of the world they are at the same time increasing their impacts and influences. Their role is gaining importance especially in s k “failed states”, i.e. in States where the governmental authority is fading away. It is here important to acknowledge that this does not mean that the corporations will take over the responsibilities of the governments in the protection of human rights. However, it does mean that corporations also have responsibilities in the field of human rights. They also have the “*obligation to respect, ensure*

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<sup>210</sup> For more details concerning this monitoring case, see: David M. Schilling, p. 228-231.

<sup>211</sup> David M. Schilling, p. 228.

<sup>212</sup> David M. Schilling, p. 228-231; and Maquilla Solidarity, p. 3-4.

<sup>213</sup> Maquilla Solidarity, p. 4.

*respect for, prevent abuse of, and promote international human rights within their respective spheres of activity and influence.*"<sup>214</sup>

Even if the corporations are in favour of globally accepted standards to take away the differences between the corporations they still find some protection in the diversity of corporate Codes. If the corporations all have different codes then it is more difficult for the critics to find material for attacks since no comparison of the companies can be made then. They will have to monitor all the codes available and then change the standards according to every single code. This will be impossible. However, if a common standard were to be used it would be much easier for the critics to compare the different corporations and then point out the "bad" ones. This is good for the corporations that actually are trying to comply with international human rights standards and bad for those who are not. So for the critics and sceptical audiences this is exactly what they want. For the majority of corporations it is not.

There is however a need for common standards because today the codes are based on the corporations own values and designed to reflect the needs of that company. It is not even sure that the basic universal values are represented which should be a matter of course. Today we have universally accepted standards in the form of the principles set out in UDHR and the ILO Conventions. These norms constitutes a good core on which a common standard can be based.

Today the corporate codes of conducts are mostly focused on core labour standards. There needs to be more focus on the broader human rights issues. There is a need today for the corporations to make more risk evaluations of future potential scandals. In order to do this they must use a broader range of human rights standards to base their evaluation on since the public, NGOs and other groups will not only demand compliance with core labour standards but they will also demand compliance with all universally accepted human rights standards. How do security forces, for example, fit in among the labour rights? They are not workers in the sense of labour rights. Instead of focusing on why not to use them the corporations should focus on why they are a problem and educate them on the issues surrounding human rights instead. To evaluate risks is something that the corporations know since they have been doing it for a long time within the financial area and a well done assessment can maybe save the company from one or more damaging scandals. Everything is done retroactively today which means that the damage is already done when dealt with and cannot be unravelled.

The corporation's interest is to make a profit and not to ensure good working conditions. History has shown that the only way to get a company to ensure working conditions is to force them to do it. Therefore, it is not suitable that the company itself is the one conducting the monitoring at the

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<sup>214</sup> UN Draft Fundamental Human Rights Principles for Business Enterprises, assumption 1, E/CN.4/Sub.2/2002/X/Add.1.

locations where they produce their goods. Then we will never get the real picture of what is actually going on. That would be like telling a criminal to turn himself in and to take with him all the incriminating evidence against himself.

However, even the best Coco in the world is useless without monitoring and verification. The Cocos function as a kind of a contract in which responsibilities as well as rights are stated. It is up to the corporation to implement and enforce these rights and responsibilities. Conversely, the monitoring and verification should be left to external bodies in order for the codes to attain full credibility.

Without the involvement and the support of the management any kind of implementation of codes would be fictional. Since the implementation of the codes are dependent on the dissemination and education of the workers and suppliers, partners and others affected then the support of the management is essential. The management is the body that can give the order to spread the knowledge of the code throughout the corporation. They can also stop such a spreading which is why it is important to have them with you and not against you.

There are many advantages to forming a human rights policy unit within the corporation. One is that it would make the human rights decision-making more consistent since the same people will be in the unit at all times. The decisions would be based on the situation and not on how the local government is acting. Another advantage is that the company can deal with human rights issues in a pro-active manner. This means that the company assesses the risks of crises instead of responding to them when they have happened or when an NGO has blown the whistle in the media. Then the damage is already done and the corporation will suffer. If they had made some risk evaluation in advance then maybe the situation could have been avoided. An additional advantage is that the unit would be able to create a kind of memory-base in which the successes and failures of the company can be gathered and used in the future when the need for it appears.

Internal monitoring is very positive in that the company itself can evaluate the code implementation process within that corporation. It is also a good way for the corporation to keep close contact with the workers in order to better assess what information they are interested in and what their needs are since the workers constitute the best group to tell how the codes work. However, from a stockholder's point of view the internal monitoring value is mostly to the company itself. Because there is no transparency or independence from the company in this process the statements that come from the internal monitors are in most cases just statements and not evidence. The information is not credible at all. One cannot lay a lot of weight into the words of these monitors.

Regarding external monitoring it is a step in the right direction. External monitoring is lifted out of the organisation and put in the hands of an

outside body. However, the independence of this body is questionable. The information that they receive are from the internal monitoring persons or bodies and may not be reliable at all. The greatest failure of this process is however, the issue of transparency. Whatever, the monitors find and how the monitoring processes are conducted is totally secret and there is no public access to the information collected by the monitors. It is the company that receives all the collected material and they can choose to do with it as they please. The public will only know what the company reveals in their public relation statements. This is why this process is of little value to the public. The only value to them is that at least the company has taken the issue surrounding corporate social responsibility so seriously that they today are willing to pay to have an external body monitor their actions.

The process of external monitoring can however be of some value to the company itself. It is an assessment of the internal processes for information gathering and of the internal monitoring procedures. The companies will receive an evaluation of how well they are working and a list of the areas in which they are not working. Then it is easier for the corporation to make the necessary adjustments. But what good does this do us when the only thing we hear is what the company wants us to hear? It still means that we will have to trust the statements made by the corporations?

Independent monitoring is the best alternative in the voluntary arena today. However, for an independent monitoring to commence the company must first agree to such a monitoring. This has only been done to a very limited extent and the results are varied. Since it is dependent on the will of the company it is not as useful as it could be. The companies are very reluctant to agree to such an investigation since they know they can be handing over the key to their fall.

There is also another issue to consider on why the corporations are so reluctant to agree to independent monitoring. The companies that agree to this kind of monitoring are putting themselves in a vulnerable position of being attacked by critics. They are placed in a worse situation than a competitor that will not follow human rights principles at all but merely has a code of conduct as a public relation exercise. This company is harder to attack by critics because it is not giving the public the material for attack. This is what the monitored company is doing by publicly exposing the information that they find. Therefore, an unfair situation is created for the complying corporation which might scare off other corporations, thinking about agreeing to independent monitoring, to do so. However, it could also be so that the consumers recognise the efforts of the corporation and boycotts the products by the competitor. This could be true but then there is a need for educating the consumers on bad or good corporate behaviour in regard to accountability. Today, I am very sad to say, the losers are the ones that open up their human rights policy to the public.

There must be an involvement of NGOs or trade unions to ensure the independence of the monitoring. This does not mean that the NGOs or trade

unions must conduct the monitoring themselves. It does mean however that they should be involved in every step of the monitoring, e.g. how the monitoring is set up, how it is conducted, how the information should be distributed after the collection and what actions that should be taken in response to the findings of the collected information.

Another problem is that if it is found, either by media, NGO or their own monitors, that a supplier is violating the code then the most common reaction by corporations is that they cut off all contact with that supplier and cancel all orders there. This is not the desirable solution from a worker's or societal perspective. If the company cancel all their orders from that supplier, then the result might be that that plant will have to shut down or at least let of a lot of workers. What the company has done then is to worsen the living conditions on the workers. This is the action chosen by most companies since it is the simplest one. If they do it like this then they do not have to "solve" the problem. It is just easier to draw back the order and place them somewhere else. There are however exceptions; IKEA was found to have child labour in their plant in the Indian state of Uttar Pradesh.<sup>215</sup> In total 1.5 million children were working there. IKEA realised that if they just withdraw from the region then the problem with child labour would not be solved by itself. Therefore IKEA did something historic. They brought in the United Nation International Children's Emergency Fund (UNICEF) and together with them they started a three-year project in 200 villages, in which IKEA manufactured their goods, in North India. The project's goal was to build schools in which the children could go, to educate the teachers so that the education would be of a higher quality and to help the women to raise their status by giving them the access to credit and finding alternative income-generating occupations so that the children would not have to work to bring income to the household.

In my view this is a much better solution since it works not only to better the situation but it also deals with the root to the problem why the children are forced to work. Here IKEA has found a way to combine knowledge with resources. This solution is more likely to eradicate the human rights abuses rather than just making them worse because what the companies really are doing when they are just leaving a location when human rights abuses are found or fire the children working in their factories is to save their own skin and leave the "cleaning up" for someone else. Maybe they are forcing the children into harder and more dangerous labour and the women into prostitution? This is of course the most obvious way to deal with the problem since they are businesses conducting business activities and not charity. However, for a company like Coca Cola in which 90% of its worth lies in its brand then the reputation of it is of outmost importance. To behave in a socially and ethically "right" way might mean that they can lessen the damage to its reputation. However, an action like the IKEA-action can also just be a cover up for the abuses found there. By making a

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<sup>215</sup> Amnesty Sweden and others (2001), p. 28-29.

large donation they are clearing their name from the abuses and thereby saving the corporate reputation.

It is great that the corporations are getting more involved in human rights today by setting corporate codes of conduct. However, without sufficient monitoring it will be impossible to state how great it is. Today the majority of corporations are only using the Cocos as a public relations exercise and the corporations that actually do good are hurt by this as well. With independent monitoring so much more credibility could be added to these codes and the scepticism could be decreased.

## 5 Assessment and recommendations

A voluntary initiative only works as an entice to the companies that already work for or really want to work for human rights, i.e. the so-called “leading companies”. Usually they already have some corporate codes of conduct implemented within their businesses and maybe also a well-functioning external assurance provider. A company that deserves to be mentioned here is Body Shop. It is a company that has been seen internationally as a catalyst for the increased level of the responsibility that the companies take on human rights issues. Another group that tends to turn to these kinds of initiatives that does not include monitoring is the ones that want to “wash” the conduct of the company, i.e. to hide abuses behind good words and another’s good name. As it is a great cost for the companies to introduce human rights friendly procedures and practices within the companies they will not do so if it is not absolutely necessary and if they do not lose money on it. It would be hard to believe that the corporations would become good global citizens just because of the goodness in their hearts. The companies that the society really wants to reach with these kinds of initiatives are not likely going to join these voluntary initiatives, i.e. the really bad human rights offenders. The only way to get to them is through mandatory obligations and regulations. One does not have to look far to be able to prove this. You can both look internationally as well as nationally. It is important that we use our experience from the past to guide us when trying to get the corporations involved in human rights issues. In order to get the perpetrators to do, as you want them to do, you have to force them or adopt rules that will make it harder for them to conduct such crimes in the future.

Within almost all areas of the world today there is a certain amount of “washing” going on. The same goes for all the different initiatives that I have talked about in my thesis. However, is this really a big problem? In one way, yes it is. There is a great need for the businesses to take a stronger role in the promotion and protection of human rights today since the role of the Government is getting weaker. There is a great vacuum in the international arena on legislation that regulates the activities of transnational corporations. They are not bound by just one country’s legislation because of their multi-national activities and the fact that the national legislation only applies to the country’s boundaries. Since the corporations are not bound by boundaries this legislation has no impact. Therefore, there is a need to regulate the activities on an international level. As there is no international legislation today then the need for corporations to get involved in voluntary initiatives is much greater than it would have been if there had been such a legislation. If there then is a lot of “washing” going on within these initiatives then the problem becomes evident. Then the purpose of them has in some ways disappeared. They were created to lift out the

actions and impacts of the corporations but instead, in some ways, they have become a help to some corporations to hide just that which it was supposed to flush out.

In another way, it is not a problem. Since the initiatives are of a voluntary character one can presume that the corporations that is drawn to these have, as a whole, a good intent for joining. Today there is a certain amount of “washing” going on within all fields. The governments are “washing”. So are the media and even the NGOs are “washing” to a certain extent. Initiatives without some “washing” going on is not thinkable and therefore, I do not find it such a big problem. There is bound to be some washing going on but not to the extent that this would be the reason for the initiative to die out. And if there were monitoring within these initiatives then there would be even less “washing” because it would be much harder for the companies to get away with that then.

Today there are no international voluntary mechanisms that TNCs have a reporting obligation to. There are several initiatives with the sole goal to assist and guide the TNCs in their struggle to reach “corporate citizenship” and guide them on how to report on their sustainable development. The initiatives are however only guidelines and include no obligation for the corporations to report back to the organisations on their progress. If the companies choose to submit reports to the organisations or inform them of their compliance with their guidelines, there is still no evaluation or verification being made on the content of these reports by the organisations. These reports are thereby of restricted value to the public. A first step towards company liability has however been made when these initiatives were created. The mere fact that the corporations are starting to join these initiatives and thereby putting themselves in danger of being publicly held accountable for the statements and commitments they have made in the initiative, at least shows us that we are on the right track. Ten to fifteen years ago the corporations did not even know what human rights were let alone that they would have any responsibilities within this field. (Which is still true for a lot of corporations today, but not as many as then.)

Three features are needed in a sustainability report in order for it to be seen as truthful and useful to the interested parties: credibility, consistency and comparability. The same applies as well to the initiatives and to codes of conduct. For many stakeholders in the world the first feature is the most important. If the report is not credible then it is of little use to them. A step towards attaining credible sustainable reports is through verifying and assessing the contents of the reports. Monitoring is thereby of utmost importance if the reports are to be taken seriously and the public are to believe in the sincerity of the corporations efforts. It is also important in connection to the international voluntary initiatives regarding corporations. Today many of these initiatives are not receiving the amount of good publicity that they should because there is too much mistrust in connection to corporations will to follow human rights, etc. Monitoring and public

access to the information found in the monitoring process are the only steps that can increase the credibility in these initiatives.

If this monitoring is to be effective under the processes and initiatives of today then NGOs need to be involved in every step. But then the right NGOs have to be involved. Today there are no complete lists of all NGOs in the world and what their special areas of expertise are. Therefore, the monitoring process becomes even more complicated. There should be a universal list developed that would contain all the NGOs of today, where they are situated and what their area of expertise is. In this way the monitoring process would be facilitated immensely. My recommendation is that this list is to be drawn up by the NGOs themselves in conjunction with other actors and not by governments or corporations.

All through the thesis it has been emphasised how important the stakeholders are to the dialogue concerning corporate social responsibility. This is also an area that is very difficult for the corporations since it is difficult for them to assess who the relevant stakeholders are. They can do all kinds of surveys, evaluations and investigations but will they actually find the right ones? Today the stakeholders identified by the corporations as the relevant and interesting are the ones that shout the loudest and are most easily identified because of their forwarded role. But are the ones that are the loudest also the most relevant stakeholders? In most cases they are not. They may not even be the ones with the most knowledge but may on the contrary be the ones with the least. It is an important question that I want to lift up in my analysis but it is also one that I unfortunately have no answer to.

The only real pressure that we have today on corporations in the form of voluntarism is the “shame-factor” in which for example NGOs play a crucial role. The power of this action must not be underestimated. It has forced many States into compliance with International Conventions they have signed but not had any interest in implementing. The “shame-factor” in conjunction with a complaint procedure can be extremely effective. Take the monitoring bodies under the different UN Conventions as a good example and then especially the Human Rights Committee. As an example; Coca Cola is one of the largest corporations in the world. About ninety percent of the value lies in the Coca Cola brand. Therefore, a gravely damaging event could really hurt the reputation and thereby the value of the brand. This could be catastrophic for Coca Cola and other companies relying on their reputation.

One solution to improve the “shame-factor” while waiting for a legal regulation could be to get the media more involved. The media is not very well-educated within the fields of human rights and the corporate impacts. If they were more educated then maybe they would do a better coverage of the situations found and the “shame-factor” would be more efficient. Today most of the discussions in the media are conducted as debates and this is

what the corporations are scared of. They are afraid that they will participate in the debate only to be cornered and just have their reputation smeared.

Another alternative could be to better educate the consumers so that they better know about the choices they have and the pressure they can put on the companies. The consumers are the Achilles' heel of the corporations. When they organise and campaign against a company then they will receive some kind of reaction from the corporations since their campaign means a loss of income for the company and money is one thing that corporations listen to. They can also pressure the big investment companies and pension funds not to invest in corporations breaching human rights. If the consumers go against a company and start a form of boycott against a company then the investment made in that company is at risk and that means that these investment corporations lose money. They do not want to do that and might state an ultimatum on the corporations – either change your practice or we will draw back our investment. This is an extremely strong power which the corporations cannot afford not to listen to or adhere to their demands.

Then again even if this “shame-factor” will be as affective as it can be it will not be effective enough to force more than a few corporations into compliance with minimal international human rights standards. The “shame-factor” is based on that one finds something on the company and this is a very big job to try to find this on all companies. It is good pressure but not sufficient in the long run.

For those corporations that do try to comply with human rights standards there might be an interest in adopting legal regulation. This is because of the unfair competitive position they fall into when competing with a non-complying company. If they have adopted Cocos or are active in different Voluntary Initiatives then they expose themselves to be criticised by the public while the lower-profile competitors may largely avoid both the costs for compliance as well as public criticism. This could in the long run lead to that not even the most dedicated human rights defending corporations will want to be good corporate citizens if they do not gain anything from it.

Even if the Cocos and the Voluntary Initiatives all are “soft law” it is still a new way for nongovernmental and other interested groups to influence business behaviour. On many issues, these groups might prefer new laws that would directly regulate international business behaviour at the national, extraterritorial or intergovernmental levels. However, if sufficient political support cannot yet be mobilized to achieve the passage of new law, then nonbinding “soft law” may be viewed as a next-best alternative. At least until a law can be agreed on. In the long run, however, there must be a law adopted if the area of corporate social responsibility is to be furthered.

The voluntary approach is sufficient as a first step following the goal of changing enterprise behaviour in specific cases. I think it is needed to change the attitudes and to let the enterprises get used to the idea of a

corporate social responsibility. Then when the time is right regulation must be established. The reason for this being, that without legal enforcement and regulation of corporate activities, I think that, we will not attain corporate social responsibility. The corporations will follow the “soft law” to the extent that it is favourable to them but not any further.

One question I ask myself is; why are we treating corporations differently than other human rights abusers? We have seen through the history with governments that a voluntary solution is not a long-term solution. It has been through the adopting of conventions that we have educated the States on human rights issues and it is through them that we have forced the countries to comply with the standards and thereby promote and protect human rights. Why not educate the corporations as well through the adoption of a convention? The adoption of a convention could also solve the problem with what standards to follow. Today the corporate codes of conduct (which are a very good window to what corporations find important) differ extensively and there is no common ground among the corporations on which fundamental international norms that they should be built on. This diversity is causing a lot of damage and confusion and needs to be dealt with if this area is to be furthered. An adoption of a convention would solve this by setting a universal conduct standard with which all have to comply.

The monitoring that exists today is a good step forward but it has so many flaws that it will not give the results that we need. There is a great gap between the social and ethical performance by corporations and the credibility of this performance. We need to close this gap and the only way to do this is through effective and qualitative monitoring. Monitoring of today consists of many actors not suited for this type of monitoring. It is very few NGOs that are competent in the way needed to monitor corporate activities. And the verification firms can usually be questioned about their independence. What we need is for the governments to adopt an international treaty under which there is an established treaty body to monitor the activities of the corporations, to force the implementation of the convention and to receive and investigate complaints. In this way there will be a competent monitoring body that after some time will attain great experience and knowledge in the field and then through this can further the area of corporate social responsibility.

Why a governmental treaty is suggested is that today most TNCs are registered in a country that has a somewhat functioning legal system. If the governments adopted the convention they would also be in charge of enforcing it. This could both be good as well as bad. Good in the way that governments are used to international systems and they have the right mechanisms to force corporations into compliance (laws, punishments, fines, etc.). Bad because, even in the richest countries, the really big TNCs have great powers and can pressure the governments not to sign or enforce the treaty. And money is a most powerful tool that can make even the strongest government listen.

Another recommendation could be to establish a Special Rapporteur to monitor the activities of the corporations. They are totally independent and are very well suited for independent monitoring. They are also used to go into countries to investigate human rights abuses.

Even if we were not to adopt any legal regulations or any Special Rapporteur then we still need to find common ground on this issue. The corporations need guidelines to follow. These guidelines need to be written in a language that the corporations understand and they need to be short and qualitative. The corporations do not know so much about this area yet. The myriad of different codes and initiatives are confusing and maybe even a bit discouraging for the corporations. They do not understand and since there is this chaos of voluntary approaches it is very complicated to comprehend and then the corporations may back off without even trying to understand. It does not matter if these guidelines are based on customary international law or if they are just based on common sense of what good conduct is. They are still needed. The corporations are in general less reluctant to report on their social and ethical behaviour. The problem is that they do not know how to do that. And even if they do, they do not know how it will help them attain credibility to the reports they produce.

Most importantly is however that the issue of monitoring needs to be much more attended to. It is of utmost importance that more monitoring is to be brought into the voluntary arena. Especially independent monitoring. Without this the voluntary approach will not be much more than a interesting general discussion but it will not result in any radical changes.

There is also a need to set the boundaries of where the corporation's responsibility begins and where it ends. Here voluntary initiatives can play an important role. Through the discussions with all relevant stakeholders involved there may be some consensus reached on this topic. I think that it is a topic that should be solved as soon as possible and that it should be solved before the progress of adopting legally binding standards can begin.

In my introduction I stated the purpose of this thesis, i.e. to evaluate the voluntary approach of monitoring corporate behaviour and if this is enough to force corporations into compliance with human rights norms, or if there is a need for legal regulation. My answer is, that voluntarism is a part of the solution but that it is nothing without legal backing. Both voluntary and mandatory initiatives will be needed; one for holding the discussions alive and the other for doing something with the results of the discussions. Historically we have learnt that it was only through legislation that we were able to make the governments comply with human rights standards. So how can we think that it will be any different with the corporations?

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