REWRITING THE RULES

THE ANTI-SWEATSHOP MOVEMENT; NIKE, REEBOK AND ADIDAS' PARTICIPATION IN VOLUNTARY LABOUR REGULATION; AND WORKERS' RIGHTS TO FORM TRADE UNIONS AND BARGAIN COLLECTIVELY

Submitted for the degree of Doctor of Philosophy
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Declaration

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(Signed):

Tim Connor

Acknowledgments

Hundreds of people have taught me what I needed to know in order to write this thesis. If I tried to list everyone I would inevitably leave out some of the most important. So I am going to acknowledge groups of people, and only name a small number of individuals who directly helped make the production of the thesis possible.

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This thesis is dedicated to my late grandfather, Douglas Christie, who loved a good story. And to my son, Paddy Douglas Connor, who does as well.

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Abstract

This thesis contributes to debates regarding the future of organised labour, the ability of global civil society networks to influence the practices of powerful institutions, and the value of non-state forms of corporate regulation. It focuses on the anti-sweatshop movement's campaigns targeting three transnational corporations (TNCs) which design and market sportswear—Nike, Reebok and Adidas. These three TNCs are members of the Fair Labour Association (FLA), a voluntary, non-state regulatory system negotiated between participating companies and a number of civil society organisations. The thesis assesses how the FLA's processes, the companies' own labour programs, and interventions by labour activists are combining to influence sportswear workers' rights to form trade unions and bargain collectively.

The thesis is based on decentred, institutionalist characterisations of the firm and its regulation. From this perspective, an effective system for regulating corporate labour practices must powerfully insert discourses promoting workers' rights into the internal debates, power plays and resulting regularised processes which produce corporate behaviour. Whereas many theoretical approaches portray voluntary regulatory initiatives as antithetical to state regulation, this thesis is influenced by those institutionalist thinkers who argue that effective voluntary initiatives can help build the political will necessary for regulatory reform by states.

Research methods employed in this thesis include interviews with Indonesian workers, FLA board members, company representatives and anti-sweatshop activists. This research indicates labour compliance staff within Nike, Reebok and Adidas have made serious, if inconsistent, efforts to persuade suppliers to respect labour rights. These efforts have been undermined by their colleagues in buying departments, who have intensified demands that suppliers produce cheaply and quickly. Partly as a result of this tension, the labour programs of Nike, Reebok and Adidas have only contributed to improved respect for trade union rights in a relatively small number of sportswear factories, and in some cases these improvements have proved fragile.

The FLA's regulatory system relies on participating TNCs threatening to cut orders if their suppliers fail to comply with the FLA's labour code. This thesis argues that if TNC compliance staff could also offer incentives—such as higher prices or more stable, long-term ordering relationships—then it would enhance their ability to convince suppliers to respect trade union rights. Such a change would require TNCs to give a higher priority to labour rights than to cost-minimisation. Unfortunately, within Nike, Reebok and Adidas, labour rights and other ethical agendas appear to be in the process of being subsumed into a more dominant discourse associated with profit-making and growth, so that labour compliance staff must establish the "business case" for each aspect of their regulatory work.

The anti-sweatshop movement has a loose, networked form of organisation which has proved remarkably successful in putting public pressure on sportswear corporations to accept responsibility for labour conditions in their supply networks. If the movement wants to see substantial improvements in respect for sportswear workers' trade union rights, then it needs to persuade sports companies to go further and make costly improvements to their labour rights programs. Relatively broad agreement across the movement on a system of rating companies' progress would likely help achieve this ambitious goal, not least by offering opportunities for re-invigorating the movement itself.

Abbreviations

AAFLI   Asian American Free Labor Institute (later ACILS)

ACILS   American Centre for International Labour Solidarity (the US AFL-CIO union federation's international solidarity organisation, previously known as AAFLI)

AFL-CIO   American Federation of Labor-Congress of Industrial Organisation (the largest federation of trade unions in the US)

AIP   White House Apparel Industry Partnership (some of the groups who were involved in the AIP have since formed the FLA)

AMRC   Asia Monitor Resource Centre (labour rights NGO based in Hong Kong)

APINDO   The Indonesian Employers Association.

CAA   Community Aid Abroad (now known as Oxfam Australia, was for a period known as OCAA)

CBA   Collective Bargaining Agreement

CCC   Clean Clothes Campaign (a European network of 200 trade unions, labour rights, development and women's groups)

CFMEU   Construction, Forestry, Mining and Energy Union

CLR   Campaign for Labor Rights (labour rights network in the US)

COVERCO   Guatemalan Commission for the Monitoring of Codes of Conduct

CSR   Corporate Social Responsibility

ETI   Ethical Trading Initiative

FBSI   Federation of All-Indonesia Labourers (from 1973 FBSI was the only legal union in Indonesia, it was re-named SPSI in 1985)

FLA   Fair Labor Association

FMNE   Foreign multi-national enterprise

FOA   Freedom of Association

FTZ	Free Trade Zone
FTZGSEU	Free Trade Zones and General Services Employees Union (Sri Lanka)
FWF	Fair Wear Foundation
Global Alliance	Global Alliance for Workers and Communities
GMIES	Independent Monitoring Group of El Salvador
Golkar	Party of the Functional Groups (was the ruling party in Indonesia during Suharto's regime and continues to be one of the biggest political parties in Indonesia)
GSBI	Association of Independent Trade Unions (an Indonesian trade union federation)
GSP	Generalised System of Preferences (system whereby beneficial trade arrangements are granted to developing countries by the US and the EU)
ICCR	Interfaith Center for Corporate Responsibility (US NGO, was a member of the AIP, but didn't join the FLA)
ICFTU	International Confederation of Free Trade Unions (was the world's largest international confederation of trade unions until it was dissolved on 31 October 2006 when it merged with the World Federation of Trade Unions to form the ITUC).
IEM	The FLA's program of independent external monitoring
ILO	International Labour Organisation
ILRF	International Labor Rights Fund (US labour rights NGO)
IMF	International Monetary Fund
ITGLWF	International Textile, Garment and Leather Workers Federation
ITUC	International Trade Union Confederation
JO-IN	Joint Initiative on Corporate Accountability and Workers' Rights
Komnas HAM	The Indonesian Government's Human Rights Commission.
LAC	Labour Action China

LBH	Lembaga Bantuan Hukum (Indonesian Legal Aid Council).
LBL	Labour Behind the Label (UK anti-sweatshop network, member of the CCC)
LCHR	Lawyers' Committee for Human Rights
Lean	The lean manufacturing philosophy, also known as "the Toyota way" (see LEI 2007)
MFA	The Multi-Fibre Arrangement (trade arrangement under which the US and the European Union allocated apparel quotas to individual countries based on bi-lateral negotiations, was in place from 1974 until the end of 2004)
MIT	Massachusetts Institute of Technology
MSN	Maquila Solidarity Network (Canadian anti-sweatshop network)
NCL	National Consumers League (US consumer organisation)
NGO	Non-government organisation
NLC	National Labor Committee (US anti-sweatshop group)
OCAA	Oxfam Community Aid Abroad (now known as Oxfam Australia, previously known as CAA)
PAR	Participatory Action Research
P4D	The Regional Committees for Labour Dispute Settlements (Panitia Penyelesaian Perselisihan Perburuhan tingkat Daerah) in the Indonesian Ministry of Labour
P4P	The Central Committee for Labor Dispute Settlements (Panitia Penyelesaian Perselisihan Perburuhan tingkat Pusat) in the Indonesian Ministry of Labour
Perbupas	The Labor Union for Shoe Factory Workers (footwear sector union of GSBI)
PFA	Play Fair Alliance
PFAO	Play Fair at the Olympics campaign
PIGS	Public Interest Groups

PwC	PricewaterhouseCoopers
SAI	Social Accountability International
SETMI	Mandarin International Workers' Union (El Salvador)
SISBIKUM	Channel for Social Information and Legal Guidance (Saluran Informasi Sosial dan Bimbingan Hukum).
SITRAKIMIH	Kimi Workers Union (Honduras)
SPN	National Workers' Union (was formed by unions who broke away from the textile, garment and leather workers' section of SPSI)
SPSI	All Indonesian Working Peoples Union (was formed in 1985 when the Indonesian Minister of Labour restructured and renamed FBSI, until 1998 SPSI was the only legal union in Indonesia)
SPTSK	Textiles, garment and leather workers union (Serikat Pekerja Tekstil Sandang dan Kulit)
TLRC	Thai Labour Review Committee
TNC	Transnational Corporation
UCM	Urban Community Mission (labour rights NGO based in Jakarta, Indonesia)
UK	United Kingdom
UN	United Nations
UNITE	Union of Needletrades, Industrial, and Textile Employees (US and Canada)
US	United States of America
USAS	United Students Against Sweatshops (US student campaign network)
WRC	Worker Rights Consortium (US organisation which investigates respect for labour rights in factories producing garments licensed to carry the logos of universities which are members of the WRC)
WSCF	World Student Christian Federation
WTO	World Trade Organisation

Introduction

> In this brief paper I wish to outline how the lively hyphen that articulates 'scholar' and 'activist' may be understood, and enacted, as a singular identity.
>
> *Gilmore (2005, p. 178)*

I have been engaged with the topic of this thesis since 1995. For part of that time my role has been as a postgraduate student; for the rest my role has been as a campaigner, participating in the same processes which, in my role as a student, I research and analyse. I therefore approach the issue as a "scholar-activist"—a term developed and explained by Gilmore (2005) in a paper in which she articulates strategies for combining these two roles. In this introduction I give a brief account of the personal history which produced this joint identity. I then describe the questions which I seek to address in this thesis and the order in which I address them.

I first became aware of working conditions in factories in the South[1] in 1989. In that year, at the age of 19, I spent a month in South Korea participating in a training program run by the World Student Christian Federation (WSCF). The WSCF is heavily influenced by liberation theology and part of the training program included meetings with women employed under highly exploitative conditions to produce garments for the North American and European market. The experience was formative: on my return to Australia I gave up my plan to be a psychologist and instead started a law degree, choosing subjects which dealt with employment law and the regulation of corporations. In 1994 I graduated and began working for Community Aid Abroad (CAA), an overseas aid and development organisation which later joined Oxfam International and changed its name to Oxfam Australia.

From 1995 until 1997 part of my job responsibilities involved participation in the global campaign to persuade the sportswear company Nike to improve its labour practices. In

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[1] In this thesis, when I refer to *the South*, *Southern* or *the global South* I am referring to countries with relatively low average per capita incomes and with economies that are either largely non-industrial or else in the process of industrialisation. When I use the term *Northern*, *the North* or *the global North* I am referring to industrialised or post-industrial countries such as Australia, UK, USA, Germany, France and Canada (see definition 2d of north in the *Oxford English Reference Dictionary* 1996, p. 990).

1995 I travelled to Jakarta to meet with Indonesian organisations involved in the campaign and to interview workers from several Nike supplier factories about their conditions of work. In 1996 I co-wrote *Sweating for Nike,* a CAA report which included findings from those interviews. It was one of many reports on the same topic released during this two-year period by researchers and humanitarian organisations in North America, Europe, Australia and Hong Kong in cooperation with workers' organisations in Indonesia, the Philippines, Thailand, Vietnam and other countries.

By 1998 CAA had decided to move on to other campaign issues and I applied for and was granted a scholarship by Newcastle University to work on this PhD thesis. In 1998 I conducted field research in the US, Europe, Hong Kong and Indonesia, interviewing labour activists and representatives of the sports brands Nike, Reebok and Adidas. I also interviewed representatives of three multi-stakeholder initiatives established to help transnational corporations (TNCs) improve labour conditions in their supply networks: the Ethical Trading Initiative (ETI), Social Accountability International (SAI) and the Apparel Industry Partnership (AIP), which later became the Fair Labor Association (FLA). In April 2000 I conducted further field research for this thesis, travelling to Indonesia where I interviewed workers from three Nike sportshoe suppliers. I followed this up with further field research visits to Indonesia in July 2001 and January 2002 where I interviewed workers from the same three factories, as well as from a factory supplying Adidas.

My official role then switched back to campaigner. From March 2002 until April 2007 I was employed by Oxfam Australia in the position of Labour Rights Advocacy Coordinator, working on the global campaign to improve labour conditions for sportswear workers. For most of this five-year period I was on leave of absence from my studies. Nonetheless in the context of my paid work for Oxfam Australia I made regular field trips to Indonesia and less regular trips to other countries where sportswear is produced, including Thailand, India and China. I conducted further interviews and focus group discussions with workers in the factories I had researched during field research for my thesis. I also supervised and/or cooperated with colleagues and contract staff to arrange and conduct similar interviews and focus group discussions with

workers in other sportswear factories. I was in regular contact with representatives of various sportswear brands and multi-stakeholder initiatives, as well as with other organisations involved in the anti-sweatshop movement. Between 2000 and 2006 I either wrote or contributed to five more public reports regarding labour rights in the sportswear industry, four for Oxfam and one for the US organisation Global Exchange. Then from May 2007 until October 2007 I took long service leave to complete this thesis.

In 1995, when I first joined the campaign targeting Nike, I didn't do so with any expectation the campaign would be able to persuade the company to change its practices. I believed TNCs held overwhelming power in a global economy in which governments were afraid to regulate them for fear they would move production and investment to another jurisdiction. I believed the way in which Nike and other TNCs were profiting from sweatshops demanded a protest response, even though that protest had no chance of success. By 1998, the year I started work on this thesis, I wasn't so sure. In that year Nike's CEO admitted to the US National Press Club that anti-sweatshop campaigners had made his company's product "synonymous with slave wages, forced overtime and arbitrary abuse" (cited in *Newsweek* 2001). At the time Nike and its competitor Reebok were participating in intense negotiations with NGOs and trade unions involved in the White House Apparel Industry Partnership: an initiative of the Clinton administration which aimed to establish a voluntary system for governing respect for labour rights in the companies' supply networks. For me, these developments opened up important questions. Could the anti-sweatshop movement generate enough leverage to persuade TNCs to voluntarily participate in processes which would improve respect for workers' rights, particularly their rights to form trade unions and bargain collectively? Could these voluntary initiatives be part of a process toward more effective international legal regulation of labour rights, or would they undermine legal regulation? What was the anti-sweatshop movement doing right, and what did we need to do differently in order to more effectively achieve our goals? I wanted to know what contribution academic research and analysis had made to answering these questions and I wanted a methodological framework and institutional support to do field research which would help me contribute to answering them myself.

According to Gilmore (2005), a constructive scholarly contribution to activism is neither about providing magical answers nor, at the other extreme, being silenced by disabling modesty. Instead she argues academic discipline should bring to activism questions which demonstrate the "strictly attentive practice of making the familiar strange" (Gilmore 2005, p. 180). While reading the work of economic geographers and other scholars has considerably informed my responses to the questions I initially brought to this project, it has also posed new questions which I hadn't anticipated. It has made strange my understandings of institutions such as the corporation and of concepts such as power and resistance. It has challenged me to formulate approaches to fundamental questions about the nature and power of knowledge. Chapter 1 explains how my thinking on these philosophical issues has developed; explains why this thinking has led me to accept decentred, institutionalist characterisations of the firm and its regulation; and explores the implications of this perspective for my research. Chapter 3 considers the implications of these philosophical issues for research practice and explains my research methodology.

Chapter 2 frames this thesis as a contribution to the ongoing debate among labour geographers and other social scientists with regard to the future of organised labour. There is a commonly held, perhaps hegemonic, belief that the growing mobility and influence of TNCs in a globalising world economy makes inevitable the continued decline of democratic trade unionism as a social and economic force. Some geographers and other scholars question this "race to the bottom" perspective, casting doubt on the way it represents TNC's strategies and capacities. Some of these scholars also articulate possible pathways to resurgence in the democratic trade union movement, often involving greater focus on globally-scaled cooperation. One of these pathways sees trade unions becoming part of broader coalitions with other civil society organisations; another involves trade unions being part of moves to establish effective forms of global governance of TNCs. This thesis takes the anti-sweatshop movement and the forms of governance which have arisen in response to it as case-studies of these two alternatives.

Until recent decades very few academic researchers considered broad, loosely organised, decentred, network-based social movements to be important social forces with the ability to influence and help shape public policies. Instead research into social movements tended to focus on the role of—and sometimes alliances between—hierarchically structured organisations representing particular classes or interests, such as trade union federations, churches, business associations and political parties. In Chapter 4 I draw on written sources, my field interviews and my own ongoing participation to assess the durability and likely long-term influence of the anti-sweatshop movement on the labour policies and labour practices of TNCS. Taking the campaigns targeting Nike and other sports brands as a case-study, I use David Boje's concept of *antenarrative* to convey a sense of how the movement functions and achieves its effects. I then use categories developed by network theorists to analyse various aspects of the way the movement operates. Finally I explore the implications of applying discourse analysis to the way in which anti-sweatshop activists seek to influence the behaviour and beliefs of their fellow citizens as part of the movement's attempt to exert leverage over TNCs.

The voluntary corporate labour codes, monitoring systems and multi-stakeholder initiatives which have been established in response to the anti-sweatshop movement's campaigns are controversial. Activists and scholars from a range of different ideological perspectives believe these initiatives to be either useless or counter-productive; commonly portraying them as cynical attempts by TNCs to conceal and hence legitimise exploitative practices and therefore minimise the political will for effective legal regulation. In Chapter 5 I draw on decentred, institutionalist regulatory theories to advocate an alternative representation of the relationship between voluntary and state-sanctioned forms of governance of TNCs' labour practices. I argue that in order to be effective any system for regulating corporate labour practices must powerfully insert discourses promoting workers' rights into the internal debates, power plays and resulting regularised processes which produce corporate behaviour. Further, I argue that if a voluntary regulatory initiative is effective, then rather than undermining legal regulation, it could instead help build the political will necessary for regulatory innovation by states. I draw on interviews and other research into the participation of

Nike, Reebok and Adidas in corporate labour codes and multi-stakeholder initiatives in order to defend this way of characterising voluntary corporate initiatives.

At the factory and workplace level, anti-sweatshop activism and voluntary forms of labour rights governance interact with workers' attempts to establish trade unions, their employers' responses and local and international forms of state-sanctioned regulation. Chapter 6 considers the way this interaction has played out in seven different sportswear factories: five in Indonesia and one each in Thailand and Sri Lanka. This chapter draws on interviews I have conducted as part of field research for this thesis as well as interviews I have commissioned or conducted as part of my role as labour rights advocacy coordinator for Oxfam Australia.

In both Chapters 5 and 6 I use discourse analysis to draw out the implications of my research for understanding how the anti-sweatshop movements' efforts to support worker organising is impacting on the values, beliefs and practices circulating within and implemented by TNCs and their suppliers. This research indicates labour compliance staff within Nike, Reebok and Adidas have made serious, if inconsistent, efforts to persuade suppliers to respect labour rights. These efforts have been undermined by their colleagues in buying departments, who have intensified demands that suppliers produce cheaply and quickly. Partly as a result of this tension, the labour programs of Nike, Reebok and Adidas have only contributed to improved respect for trade union rights in a relatively small number of sportswear factories, and in some cases even these improvements have proved fragile.

The FLA's regulatory system relies on participating TNCs threatening to cut orders if their suppliers fail to comply with the FLA's labour code. My research gives reason to believe that if TNC compliance staff could also offer incentives—such as higher prices or more stable, long-term ordering relationships—it would enhance their ability to convince suppliers to respect trade union rights. Such a change would require TNCs to give a higher priority to labour rights than to cost-minimisation. Unfortunately within Nike, Reebok and Adidas labour rights and other ethical agendas currently appear to be in the process of being subsumed into a more dominant discourse associated with profit-

making and growth, so that labour compliance staff must establish the "business case" for each aspect of their regulatory work.

Chapter 7 concludes the thesis by summarising insights into the operation of the anti-sweatshop movement and voluntary forms of labour rights governance discussed in earlier chapters. It then makes a number of recommendations regarding how the anti-sweatshop movement might increase the effectiveness of its attempts to influence the labour practices of TNCs and suggests a role for academic geographers in this process. The loose, networked form of organisation which has so far characterised the anti-sweatshop movement has proved remarkably successful in putting public pressure on sportswear corporations to accept responsibility for labour conditions in their supply networks. If the movement wants to see substantial improvements in respect for sportswear workers' trade union rights, then it needs to persuade sports companies to go further and make costly improvements to their labour rights programs. Relatively broad agreement across the movement on a system of rating companies' progress would likely help achieve this ambitious goal, not least by offering opportunities for re-invigorating the movement itself.

Chapter 1

Philosophical dilemmas and their implications

> …in the West, there's a tradition that there are substances—a thing is a substance if it can exist independently of everything else that there is; has certain properties independent of other things. So this is in some sense a fundamental assumption of much Western philosophy. And you get this radical denial of this in the later Buddhist traditions... (*ABC* 2007).

This quote is taken from a radio interview with Graham Priest, Professor of Philosophy at the University of Melbourne. Priest goes on to describe how cracks in the main traditions in Western philosophy started to appear in the 1960s as a result of critiques by Foucault, Derrida, Kuhn and Quine. In Priest's view, the further development of these critiques has fragmented philosophy and created a crisis within the discipline which is yet to be resolved. This fragmentation has important implications for other academic disciplines, since philosophers ask questions of fundamental relevance to the processes of research and representation. These questions include the following dilemmas. Can reality be broken down into basic primary elements, at least for the purpose of analysis? Are the complex events and entities we observe the result of deeper, simpler structures and if so how can we discover these? Can language and thought represent reality at all, and if so in what sense? How should power be understood? How does it manifest itself and how can it be confronted and counteracted? These questions have a long history and a contentious present, and a detailed account of the ongoing arguments between philosophers regarding even one of them is beyond the scope of this thesis. Nonetheless, each of these questions has important implications for how I, in the context of this project, develop ideas and attempt to test and evaluate them. My purposes in this chapter are therefore limited and specific. I describe the positions I take in this thesis in relation to each of these philosophical dilemmas. I explain how, in taking these positions, I have been influenced by a number of geographers and other thinkers who reject the "fundamental assumption" which Priest describes: the assumption it is possible for entities to exist independently and to hold particular properties which are separable from their interaction with other things. In giving this account my purpose is

not to participate in debates regarding which interpretations of the work of philosophers such as Karl Marx, Antonio Gramsci, Michel Foucault or Bruno Latour most faithfully reflect their original texts. Instead I am interested in how particular geographers and other theorists who inspire and influence me interpret, adapt and apply these philosophers' ideas, and in how I can apply these interpretations and methods in my own work. In the final section of the chapter I illustrate the implications of these philosophical positions for my thesis project by exploring how they have led some economic geographers to rethink the motivations guiding decision-making within corporations.

Processes versus relations

Theories which assume the existence of substances—in the sense described by Priest in the quote which opens this chapter—are often referred to as "Cartesian" after the 17th century French philosopher Descartes. Cartesian analysis is atomistic: it focuses on relations between entities, treating the entities themselves as irreducible. While this way of thinking has been highly influential in Western philosophy, it has not gone unchallenged. Its critics believe it mistakenly treats forming and formative processes as if they were solid and durable things and narrowly confines analysis to comparisons of relations between such things at particular points in time (Harvey 1996, pp. 47-9). I am inspired by theorists who reject Cartesian accounts and instead portray entities as constituted, sustained and undermined by multiple processes and flows which circulate through as well as within them.

One articulation of this approach is presented by David Harvey (1996, pp. 49-56) who draws on the work of the philosopher Alfred Whitehead and other influences, most notably Marx. Harvey acknowledges we are surrounded by and rely on things which seem to have a permanent and solid character but notes, "even something as solid and long lasting as an Egyptian pyramid is constituted out of matter in motion" (Harvey 1996, p. 50). Taking himself as an example he points out that close inspection shows him to be "a rather contradictory and problematic 'thing' created by all sorts of social processes". He is kept alive by a variety of bodily organs which require, in their process of continual self-reconstruction, particular interactions with the environment and, "if the

processes change, the body is either transformed or ceases to exist." At the same time social processes are at work in the acquisition, development or impairment of language and other social skills (Harvey 1996, p. 51). Further, he is not only continually reconstituted by the multiple processes through which he interacts with various aspects of his environment, he himself reconstitutes aspects of that environment through those processes:

> I breath in, I reconstitute myself by virtue of the oxygen I gain, but in the process transform the chemistry of the air within me, and I breath out and in so doing transform the atmosphere around me or, I take in ideas and thoughts through listening and reading. I gain a sense of selfhood thereby but in the process reformulate and transform words and in projecting them back into society change the social world (Harvey 1996, pp. 53-54).

Harvey's account of social systems is equally dynamic. He acknowledges they can possess qualities of "identity, integrity…relative stability" and even relative autonomy but argues these qualities indicate not an inert, static set of relationships but rather a relatively stable, but far from immutable, pattern of processes and flows. Following Whitehead, Harvey calls these patterns "permanences". From this perspective it is stability rather than change which is surprising and worth investigating; the theorist must explain how the permanences which produce relatively stable social systems "are maintained yet also integrated into a dynamic world of process" (Harvey 1996, pp. 55, 73).

Harvey does not pretend these dynamic processes are smooth or conflict-free. Rather he describes them as inherently contradictory, simultaneously both supporting and undermining each other. The tensions arising from such contradictions are seen as neither abnormal nor necessarily counterproductive. Instead opposition, tension and contradiction are seen as essential elements in the continued recreation and transformation of all systems and entities (Harvey 1996, p.54). This is as true of discursive processes as it is of biological systems; ideas clash with each other and their interaction plays a role in recreating the social and physical world. Writers who accept this view of how social reality is continually re-created must therefore accept that the act of theorising involves much more than passive reflection: analysing particular events

and processes and disseminating that analysis to others necessarily plays a part in reconstructing the social world. Harvey (1996, p. 56) again:

> Dialectical enquiry necessarily incorporates, therefore, the building of ethical, moral, and political choices (*values*) into its own process and sees the constructed knowledges that result as discourses situated in a play of power directed to some goal or another.

Harvey describes this process-focused way of understanding the world as "dialectics". This term can generate confusion since it has two commonly-understood meanings which differ significantly from the sense which Harvey intends: the first associates dialectics with dialectical argument involving thesis, antithesis and synthesis; the second, with dialectical materialism understood as the process of historical development from one era to another through the ongoing resolution of conflicts between two or more classes.[2] In place of "dialectics", I will instead use the term "overdetermination" or "the principles of overdetermination". In this I am influenced by Stephen Resnick and Richard Wolff who adapt this term from the work of Louis Althusser, arguing "Althusser's notion of overdetermination [is] a more precise and useful term than its predecessor, dialectics" (Resnick & Wolff 1992, p. 136). Resnick and Wolff's description of overdetermination is consistent with Harvey's account of dialectics as I summarise it above. They hold that calling something overdetermined means that its "existence, including all…[its] properties or qualities, is determined by each and every other entity and process constituting the society in which…[it is] located" (Resnick & Wolff 1987, p. 20).

Essentialism versus anti-essentialism

A shared commitment to the principles of overdetermination brings together geographers who with respect to other debates—particularly the tensions between structuralism and post-structuralism—would be strange bed-fellows. Like Harvey (1996), Amin and Thrift (2002, p. 27) acknowledge their philosophical debt to Alfred Whitehead, and in *Cities, Reimagining the Urban* (2002) they provide an

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[2] An example of the confusion surrounding the term can be seen in Whatmore's (1999, p. 25) critique of Harvey's (1996) account of dialectics as applying a "binary logic". She seems to be responding to these commonly understood definitions of dialectics, since Harvey's (1996) account is anything but binary.

overdetermined account of modern urban life. However some of the other names Amin and Thrift (2002, p. 27) add to the "philosophical bloodline" guiding their ontology, notably Serres, Deleuze and Latour, are theorists Harvey would be unlikely to claim as influences.[3] Gibson-Graham also apply the principles of overdetermination in *The End of Capitalism (as We Knew It)* (1996) and other work, but their attitude to post-structuralism is very different to that of Harvey (Gibson-Graham 1996, pp. 77, 159). Harvey could be described as essentialist, in the sense that he prioritises the role of economic processes in determining events. In contrast, Gibson-Graham and Amin and Thrift, could be characterised as anti-essentialist since they refuse to accept that observable events are the result of simpler, underlying structural forces. Before further exploring this distinction between essentialism and anti-essentialism it is necessary to articulate some of the challenges which face any scholar trying to give an overdetermined account of a subject of study.

If it is accepted that the only way to understand the attributes of entities or systems fully is to understand all the different processes which constitute them and which they internalise, then it must be accepted that the variety and complexity of these processes and relationships makes full knowledge impossible (Harvey 1996, pp. 51-2). Even defining the subject of study is problematic: theorists applying overdetermination are forced to recognise that in defining their topic they are drawing a somewhat arbitrary line around, and in some cases through the middle of, a large number of processes. The complexity, number and often contradictory nature of those processes tend to make clearly delineated separations between what is "external" to the defined system or entity and what is "internal" almost impossible. It therefore becomes necessary to use definitions in a broad and approximate way, recognising that the boundaries are imprecise and permeable. To take one example, my larger topic has to do with regulating the labour practices of transnational corporations (TNCs) involved in labour-intensive industries. Businesses tend to consider "goodwill", understood as the regard with which they are held by their customers, as one of the company's assets—as

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[3] Although in his own work Harvey applies the principles of overdetermination within a Marxist theoretical framework, he recognises non-Marxist theorists such as Leibniz, Hegel, Heidegger and Derrida also apply the same principles. In the account I summarise above Harvey set out to describe the general principles of overdetermination, not only their application within the Marxist tradition (Harvey 1996, p. 47).

something "internal" to the company. Any attempt at a detailed definition of TNCs might therefore include, as one aspect of that definition, a consideration of this aspect of a corporation's assets. My thesis takes as case studies three very large sportswear corporations, Nike, Adidas and Reebok. The "goodwill" element here includes some of the ideas, thoughts and images in the brains of hundreds of millions of consumers. Drawing a clear distinction between which of those ideas, thoughts and images are within and which are outside of the boundaries used to define those corporations is an extremely complex exercise. Given that each of those thoughts is constantly in the process of being reconstituted by other events and thoughts and experiences makes it even more so.

Overdetermination also undermines a fixed separation between "wholes" and "parts". Any "thing" or system can be broken down in a variety of ways into a collection of other "things" or systems which are in some relation to each other and to the "external" environment (Harvey 1996, p. 52). The "corporation" can be broken down into various "departments" or "sections", or into "managers" and "workers" or in other ways. These systems can in turn be broken down. Individual departments can be separated into the individuals who compose them, and those individuals are part of a variety of sometimes conflicting processes, and so on ad infinitum. At the other end of the spectrum the corporation can be conceptualised as part of larger systems such as a capitalist liberal-democratic state or local, national or international economies. Hence there are no irreducible building blocks from which a theory can be constructed. Harvey quotes Levins and Lewontin, "It is legitimate to investigate 'each level of organisation without having to search for fundamental units'" (Harvey 1996, p. 52). All this means that:

> Setting boundaries with respect to space, time, scale, and environment then becomes a major strategic consideration in the development of concepts, abstractions and theories. It is usually the case that a substantial change in these boundaries will radically change the nature of the conceptions, abstractions and theories (Harvey 1996, p. 53).

Recognising that the various entities in any relationship are continually involved in processes and flows in which they influence and recreate each other also undermines distinctions between subject and object. Emphasising the continuous flow of processes

makes it impossible to use rigid "cause and effect" arguments, along the lines of "if governments do this, then companies will respond in this way". There are a great many variables involved and they are all interrelated, constantly changing and mutually constitutive, so analysts can never irrevocably predict the impact of any particular event. The processes of nature and society are too complex for full explanation, rather (to quote Harvey quoting Whitehead), "All that can be done is to use language which may speculatively demonstrate (them)" (Harvey 1996, p. 54).

Harvey argues theorising therefore involves a "certain kind of… reductionism - not a reductionism to things, but to an understanding of common generative processes and relations" (Harvey 1996, p. 58). For Harvey, accepting all entities and systems are constituted by all the processes in which they are involved does not imply all those processes have the same power to transform or stabilise those systems and entities. He believes theorists should identify the most important processes and build theories based on analysis of how those processes interact with each other and with other processes to generate those results. Peet (1992) advocates a similar approach in his debate regarding anti-essentialism with Graham (1992) and Resnick and Wolff (1992) in the journal *Antipode*. Peet (1992, p.120) writes: "Theory cannot immediately contain all aspects of reality…It must choose (abstract) some aspects of reality for particular attention, and in this, I would argue, is necessarily essentialist". For Peet and Harvey, following Marx, the processes deserving particular attention are those to do with the economic relations of production since such relations are "indispensable for the production of life" (Peet 1992, p. 119). Both Peet (1992, p. 122) and Harvey recognise analysis should not end with these economic processes: to do so would result in overly simplistic accounts which reduce events to underlying structures and conceals difference. However they advocate prioritising economic processes as the starting point for a dialectic analysis which considers the interaction of economic processes with other processes.

In their responses to Peet, Graham (1992, p. 142) and Resnick and Wolff (1992, p. 137) argue it is inconsistent with overdetermination to suggest some processes play a more important causative role than others. Overdetermination holds that each of the processes operating in a society is constantly playing a role in reconstituting all the others

(Resnick & Wolff 1987, p. 3). To assign differential causative value to them therefore involves theoretically separating processes which cannot be separated. The significance of each process cannot be assessed separately to the other processes which constitute it because without those other processes it wouldn't exist in the same way and hence wouldn't have the same impact on society (Resnick & Wolff 1992, p. 137; Graham 1992, p. 142). It is this rejection of the idea that economic processes or any others can be prioritised as the most important which marks Resnick and Wolff and Gibson-Graham as anti-essentialist.

As an alternative to essentialism, Resnick and Wolff (1992) and Graham (1992, p. 142) propose the concept of an "entry point":

> Where does this leave social analysts who are unable to evaluate the contribution of an infinity of constituent "causes" to the objects of their studies? It seems they must make a choice. They must focus on one or several processes that they find interesting or important (for some overdetermined autobiographical reason).

Anti-essentialist theorists don't argue their particular entry point is more important than other processes; it is only the point at which they begin their theorising. Resnick and Wolff (1987) and Gibson-Graham (1996) for example take as their entry point the concept of class processes and explore their "relations of mutual overdetermination" with non-class social processes (Resnick & Wolff 1987, pp. 25, 52). Gibson-Graham (1996, p. 56) describe such theorising as producing a "distinctive and partial kind of knowledge" which cannot secure "ontological priority or privilege". They argue the basis on which an entry point is chosen and on which analysis proceeds is overdetermined by educational, political, economic, imaginative and other processes associated with the theorist, rather than by the essential characteristics of what is being theorised (Graham 1992, p. 142).

While it is no longer credible to deny that the multiple experiences which have influenced a scholar's intellectual and emotional development also affect the way he or she theorises, the "entry point" approach also invites questions about consistency with the concept of overdetermination. While it is true that Peet's essentialising of economic

processes logically contradicts overdetermination, this accusation could also be levelled at Resnick and Wolff and Gibson-Graham. By selecting one or several processes as the starting point for analysis they also would seem to be acting on the assumption that the nature and role of those influences can be discussed independently of the other processes which are constantly shaping them. This criticism however assumes that the purpose of theorising is to accurately represent reality—an assumption which Resnick and Wolff and Gibson-Graham do not share. Before explaining how I approach the essentialism/anti-essentialism issue it is necessary therefore to consider the thorny question of the relationship between knowledge and other aspects of reality.

Knowledge and its relationship with the world

Peet argues knowledge should portray the world as authentically as possible. In his words, "The difference between theorising and writing poetry lies in the careful procedures by which ideas are made to resemble real entities" (Peet 1992, p. 119). Gibson-Graham and Resnick and Wolff reject this understanding of knowledge, arguing instead that knowledge itself is overdetermined by all of the processes which participate in its constitution. To quote Graham (1992, p. 147):

> An overdetermined knowledge is a process without an essence. It has no a priori or essential motive, no abstract vocation to represent the world. Its purposes, like its content, change as other social and natural processes change. Specific and partial and existing in change, knowledges cannot mirror the world in thought...

This understanding of knowledge has radical implications for academic research and argument. Theories can no longer be defended or distinguished from other theories based on their correspondence with social reality: instead experimentation, observation, interviews or other research methods are themselves seen to be overdetermined by multiple processes—including the researchers' attitude to the theories the research methods are supposed to test (Resnick & Wolff 1987, p. 9). Each theoretical position has its own internal indexes of—and methods of measuring—truth and falsity and there is no external standard by which those indexes can be distinguished, a theory's justification can only be accepted once the theory itself has been accepted (Graham 1990, pp. 59-60; Resnick & Wolff 1987, p. 6). Hence to call another theory wrong is not

to say that the world is different from how that theory represents it, but rather that the theory in question is different from your own theory and "in that precise sense 'false'" (Resnick & Wolff 1987, p. 58; see also Graham 1992, p. 143). Resnick and Wolff (1987, p. 10) do not deny that social and physical processes exist independently of theories about them, but they argue that social reality is beyond those "realities" conceived or conceivable within various theories:

> …social reality…is distinct from, external to and encompasses the different realities conceived in and by different theories. However, precisely because of this externality, its distance beyond conceived realities (the only realities that we *know*), it cannot possibly serve as a universal or absolute measure for them.

At this point I diverge somewhat from the approach taken by Gibson-Graham and Resnick and Wolff. I believe it is possible to recognise there is no absolute measure of accuracy but still posit a relative—but not relativist—means of valuing theories. I accept there is no fixed, predictable relationship between processes and events and the way they are symbolised and interpreted (Bhabha 1994, p. 171). I also accept knowledges are constituted by, and play a role in constituting, multiple other processes; people and their ideas are not separate from the world but constantly connected to and implicated in it. Nonetheless whereas Resnick and Wolff emphasise social reality's "distance beyond conceived realities" and they and Gibson-Graham emphasise the impact of theories on other aspects of social reality, I believe the way other aspects of reality impact on conceived realities is also worthy of close attention. I don't think it is inconsistent with overdetermination to argue that when a researcher engages in research processes, the social and physical processes she observes—admittedly through the lens of her conceptual framework—can influence that framework and encourage her to change it. The honest and rigorous researcher will often find that her research exposes the inadequacy of her current ideas and challenges her to come up with new formulations. To quote Bohm and Peat (cited in Harvey 1996, p. 68):

> We cannot impose any world view we like and hope that it will work. The cycle of perception and action cannot be maintained in a totally arbitrary fashion unless we collude

to suppress the things we do not wish to see while, at the same time, trying to maintain, at all costs, the things that we desire most in our image of the world.

Nor do I think it is inconsistent with overdetermination to suggest that if other researchers engage in similar research processes and find similar things then this can provide a basis to assess the usefulness, if not the accuracy, of a concept. My thinking here is influenced by the semiotician Umberto Eco and in geography/ social science by the thinking of Andrew Sayer. Eco draws on a different tradition in semiotic theory to that which influences Resnick and Wolff. The latter's approach is allied with the "structural linguistics" tradition associated with Ferdinand de Saussure who argued "language is a system of differences in which all elements are defined solely by their relations with one another" (Resnick & Wolff 1987, p. 17). Eco is one of the more prominent current exponents of the Peircean[4] realist tradition which rejects the idea that the relationship between signs and what they purport to represent is completely arbitrary. Eco argues the way signs are interpreted is guided by the habitual methods for drawing inferences developed within communities. These habits are developed by members of the community acting on the world and observing the impact of these actions and developing forms of reasoning based on that interaction. Over time this process of developing and applying habitual methods of drawing inferences produces successful habits—socially shared notions which the community is engaged to take as if they were true. He acknowledges there is no way of knowing whether these notions are accurate. Representations do not capture the thing they purport to represent, and history is full of examples of socially shared notions which ultimately proved inadequate (Eco 1998, p. 19). This does not mean however that the relationship between these notions and the "real world" is arbitrary, because representations are liable to be undermined and to change as a result of the continuing process of members of the community acting in the world and experiencing the result:

> There exists a process of verification that is based on slow collective public performance by what Charles Sanders Peirce called "the Community". It is thanks to human faith in this community that we can say…the earth turns around the sun..." (Eco 1998, p. 19)

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[4] This tradition traces its origins to the work of the 19th Century American philosopher Charles Sandars Peirce.

According to Eco, although we cannot know whether ideas accurately represent the world, we can judge the extent to which they are far-fetched or inadequate on the basis of their inability to explain as many of the relevant phenomena as other theories and the extent to which they meet other criteria such as economy and simplicity[5] (Eco 1992, p. 52). Eco's concept of successful habits is similar to Sayer's (1992) argument that knowledge can be evaluated on the basis of its "practical adequacy". Like Eco, Sayer (1992, p. 48) recognises it is impossible to determine whether any representation is accurate. He suggests knowledge should instead be valued on the basis of whether it generates "expectations about the world and about the results of our actions which are actually realised" (Sayer 1992, p. 48).

Resnick and Wolff (1987, p. 15) reject this criterion of "success" as a means of valuing theories, arguing the understanding of "success" like "truth" is theory-relative. Sayer is sympathetic to this argument, acknowledging all perceptions and experiences are mediated by our concepts about them. He notes this is true even for basic senses such as sight; people who are born blind and then gain sight cannot comprehend the sensory images they receive until they develop a conceptual scheme for interpreting them (Sayer 1992, pp. 53-4). Even so, Sayer maintains that although our experiences are influenced by our theories, the opposite is also true. Our observations, experiences and interaction with the world challenge and change our theories about it and can be used as a basis for building broader support for particular theories. Sayer's (1992, p. 61) explanation of how academic research and analysis can lead to advances in knowledge is similar to Eco's explanation of how communities develop successful habits:

> Although there is no context-free, theory-free factual base toward which we can retrace our steps in cases of disagreement, it is reasonable to try to settle the issue by retreating to those concepts and empirical evidence (remembering that the two are interdependent) where there is no disagreement and then attempting to check the consistency of the disputed concepts and empirical evidence with these.

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[5] Eco is here drawing on the work of philosophers of science, including Popper and Kuhn. In advocating simplicity and economy he does not mean that complexity should be ignored, but rather is warning against drawing too much from too little evidence.

Sayer and Eco's criteria for differentially valuing knowledges therefore result in assessments which are tentative, conditional and relative; underlining Whatmore's (1999, p. 24) point that the size of the gap between the epistemological arguments put by social constructionists and those put by realists is often considerably overstated. Nonetheless, accepting Sayer and Eco's epistemological approach rather than that of Resnick and Wolff has important implications. As a geographer interested in the labour rights practices of TNCs, Sayer and Eco provide me with a reason to continue to engage in field research. Resnick and Wolff argue theories can only be distinguished on the basis of their differences from each other. In contrast, Sayer and Eco provide some hope that methodologically rigorous research and analysis can help to differentially value speculative representations of complex social processes and suggest which of those representations are most useful as guides to strategic action.[6]

Back to essentialism and anti-essentialism

This understanding of the relationship between knowledge and reality influences my position with regard to essentialism and anti-essentialism. In the debate with Peet in *Antipode*, Graham (1992, p. 141) defines essentialism as the assumption that:

> …complex social phenomena can be understood as manifestations or expressions of simpler realities at their core. Thus a humanist essentialism might theorise social processes and events as reflections of certain basic human qualities such as the need for community or the desire for power, whereas a structuralist essentialism might theorise the same processes and events as manifesting the causal efficacy of certain stable and enduring social relations.

Defined this way I am not an essentialist.[7] I accept that applying the principles of overdetermination means retaining a continuous openness to complexity. The

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[6] As I discuss later in the chapter, although I adopt Sayer's concept of practical adequacy, I do not accept some other aspects of his epistemology.

[7] Sayer (2000, pp. 81-102) points out the terms essentialism and anti-essentialism are used to describe a number of different kinds of arguments taking place in the context of a variety of academic disciplines. For the purpose of explaining my approach to this thesis, I am interested in, have described and am here taking a position in relation to, a particular essentialist versus anti-essentialist debate between geographers who accept overdetermination but take it in different directions.

generation of social phenomena cannot be reduced to the operation of particular processes since those processes are intertwined with and constituted by all the other processes they interact with. I do however believe that theories should be valued in terms of their practical adequacy: the extent to which they generate expectations about the world and the likely implications of strategic interaction with it. Hence I believe theorists should speculatively articulate possible explanations for those permanences which can be observed, explanations which suggest how various interventions are likely to impact on those permanences. This necessarily involves developing theoretical models which are simpler than the theorist knows the reality must be. It necessarily involves theoretically highlighting the interaction of some rather than all of the processes involved in the production of particular phenomena. The theorist applying the principles of overdetermination undertakes this reductionism knowing that in reality the processes he or she analyses are inseparable from other processes and that the interactions between all relevant processes are too complex to capture in an intelligible theory. This simplification could be described as a kind of essentialism, not an essentialism that believes all processes and events are the result of simpler causes, but a strategic essentialism which focuses theoretical attention on particular processes in order to generate theoretical models which can guide strategic action. For me, this kind of essentialism should not start from *a priori* assumptions that particular processes—such as class relations—should always be the starting point for analysis. Instead scholars should seek to develop theoretical models which they believe will provide useful guides to action in specific contexts, and their selection of which processes to highlight should be based on their research and observation of those contexts as well as on other overdetermining factors.

The concept of strategic essentialism was first developed by Spivak and has been influential in the context of post-colonial debates regarding strategies for opposing racism, sexism and colonialism. In the context of these debates essentialism refers both to the tendency to stereotype people who share a particular gender or ethnicity and to the tendency within some strands of the Marxist tradition to essentialise people as sharing a particular consciousness as members of classes such as the proletariat, the bourgeoisie or the peasantry. Like most theorists influenced by post-structuralist

thought, Spivak is usually more interested in highlighting diversity and individuality than in identifying essences. However in a famous 1988 essay she proposes that essentialism could be used tactically by particular groups as part of strategies to liberate themselves from political or other forms of oppression. She puts forward this idea as part of a re-reading of various radical Indian historians' accounts of struggles against colonialism. In several cases these historians, many of them Marxist, sought to discover and articulate a collective consciousness which motivated and drove political resistance movements. Spivak points out that as descriptions of historical processes this application of essentialist notions of consciousness is vulnerable to post-structuralist critique: "Class" she writes, "is not after all an inalienable description of a human reality" (Spivak 1988, p. 14). She argues essentialism may be temporarily justifiable, however, as a tactical theoretical articulation of means by which oppressed groups can facilitate collective action:

> Class consciousness on the *descriptive* level is itself a strategic and artificial rallying awareness which, on the *transformative* level, seeks to destroy the mechanics which come to construct the outlines of the very class of which a collective consciousness has been situationally developed (Spivak 1988, p. 14).[8]

In the original 1998 essay Spivak (p. 14) expresses ambivalence about this tactic: she believes it carries with it a process of alienation, since constructing any kind of collective consciousness necessarily involves creating pressure for conformity and suppressing differences among members of the relevant community. In a later 1993 interview she indicates unhappiness with the way other theorists have taken up and misused her concept as a "union ticket for essentialism" without attempting to understand what she means by strategy. As a result she herself has abandoned the phrase, although not necessarily the concept (Danius & Jonsson 1993, p. 35). My use of the concept here retains the emphasis on strategy but extends it from Spivak's original context to include the strategic construction of all representations which are designed to be practically adequate in Sayer's sense. It's worth noting Sayer (2000, p. 102) himself

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[8] *Descriptive* and *transformative* are italicised in Spivak's original text. Interestingly Spivak—who is influenced by both Marx and Derrida—interprets Marx's writing as a critique of essentialism and describes essentialist interpretations and applications of Marx as a betrayal of Marx (quoted in Danius & Jonsson 1993, p. 35)

rejects strategic essentialism, arguing, "There can be both sameness and difference and recognition of the former need not be merely a reluctant concession to political expedience, as in 'strategic essentialism'". He instead advocates a "moderate" essentialism which retains a concept of "generative and causal powers" (Sayer 2000, p. 101). Sayer does not accept the principles of overdetermination which, as I discuss above, necessarily make any theoretical identification of generative and causal powers a strategic process. My adoption of Sayer's concept of "practical adequacy" should therefore not be understood as acceptance of all aspects of his "critical realist" epistemology.

In terms of its application to research and theorising, the approach I outline above is almost identical to the way in which Gibson-Graham (1996, pp. 206-7) construct and apply theories:

> Writing about social existence and change we inevitably face the problem of how to represent a particular social configuration, which for us has become less a question of accuracy or fidelity (to the "truth" of what we describe or seek to understand) than one of "performativity." When we tell a story and represent a social practice or site, what kind of social world do we construct and endow with the force of representation? What are its possibilities, its mobilities and flows, its contiguities and interconnections, its permeabilities, its implications for other worlds, known or unknown?

A key theme in Gibson-Graham's work is the application of this principle to understandings of capitalism and globalisation. They draw attention to the way researchers and theorists from widely divergent political and theoretical perspectives commonly share an assumption that through globalisation "corporations", "capitalism" and "the market" have colonised local, regional and national economies, effectively leaving no part of the world outside their ultimate control (Gibson-Graham 2002). Gibson-Graham argue this assumption operates to limit and constrain both the kinds of alternatives to capitalism which might emerge and strategies for achieving those alternatives. Theorists who accept this assumption but still want to support alternatives to capitalism are forced to argue that resistance must necessarily also operate at a global scale, since local attempts to create alternatives will necessarily be crushed by the all-

powerful global operation of capital. In order to displace this assumption, Gibson-Graham's work documents the creation and dissemination of alternative non-capitalist economic models and practices, many of which operate only at the local level. They seek to create a discourse of "economic difference in which the economy is diverse (rather than primarily capitalist) and in which economic dynamics are multiple (rather than limited to the quest for profitability and the law of the market) and overdetermined (rather than naturally dominant)" (Gibson-Graham 2002, p. 37). They draw a parallel between their work and Sharon Marcus' work on representations of rape (Gibson-Graham 1996, pp. 76-79, 129). Marcus notes much feminist activism and public debate with regard to rape has been based on a "rape script" which positions women as vulnerable and unable to defend themselves against rape and positions all men as potential rapists. She argues this "script" can potentially reinforce a victim status and mentality among women and fails to challenge men to change their understanding of themselves and their behaviour. Marcus records the stories of women who fought against their attackers and managed to drive them away and uses these stories to suggest that other "rape scripts" are possible and that such scripts may well be more effective in preventing rape (Gibson-Graham 1996, pp. 76-79, 129). Just as Marcus seeks to provide women with alternative knowledge which increases their ability to act powerfully when faced with the threat of rape, Gibson-Graham (2002, p. 36) seek to make alternative, more powerful, economic identities available to those rendered powerless by the dominant discourse associated with globalisation.

There are considerable parallels between Sayer's concept of "practical adequacy", the notion of strategic essentialism as I use it above and the way Gibson-Graham use the concept of performativity. For knowledge to be practically adequate it needs to generate expectations about the world, expectations about the results of our actions in the world and opportunities to investigate whether those expectations correlate with people's experience; Gibson-Graham's work on alternatives to capitalism clearly meet these criteria. Where I diverge from Gibson-Graham is that their practice seems to me incompatible with three aspects of the epistemology which they share with Resnick and Wolff. First, Gibson-Graham's argument that knowledge should be constructed for a particular purpose—that of performativity—seems to contradict Graham's (1992, p.

147) account of knowledge as something whose "purposes, like its content, change as other social and natural processes change". Second, whereas Graham (1992, p. 142) and Resnick and Wolff's (1992) explanation of the overdetermined way in which theorists choose their entry point seems to justify focusing theoretical attention on *any* of the processes involved in creating an event, the concept of performativity instead suggests theorists should select those processes which seem to them most likely to provide theoretical models which can usefully guide strategic action. Third, suggesting knowledges can be assessed based on their performativity seems to contradict both Resnick and Wolff's (1987, p. 58) and Graham's (1990, pp. 59-60) relativist position that it is impossible to argue any theory has more explanatory power than any other theory and hence theories can only be valued on the basis of how they are different from each other. It is possible Gibson-Graham would respond to this criticism by arguing their application of the concept of performativity is not prescriptive: it is only the approach they, for overdetermined reasons, take to theorising and they regard all other approaches as equally valid. If this is the case there is no inconsistency between their epistemology and their practice and it is their relativist approach to valuing different ways of theorising which instead marks a point of difference from my approach.

Power and resistance: the importance of discourse

Gibson-Graham use the term "discourse" to describe both the dominant narrative regarding capitalism's occupation of global space and their alternative account of the significance of local alternatives to capitalism. Discourse theory, most commonly associated with the work of Foucault, has of course achieved central importance in much social and philosophical thought (Purvis & Hunt 1993, p. 480). In utilising this concept I'm influenced by the way it has been interpreted and applied by Norman Fairclough (1995, 2005), Trevor Purvis and Alan Hunt (1993) and, in geography, by John Allen (2003), Gibson-Graham (1996, 2002) and Phillip O'Neill (2007). Like all abstractions, "discourse" is difficult to define with precision. A key characteristic is that discourses involve systems of linked signs expressed in text or through non-verbal practices (Purvis & Hunt 1993, p. 485). The term "text" is understood broadly to include not only written texts but also spoken interaction and multi-media forms of communication such as television and the internet (Fairclough 2005). These sign

systems can vary considerably in terms of scale: they can be as small as turn-taking systems or as significant as generic scripts for narratives or "fully-fledged codes or registers" (Fairclough 1995, p. 72). The ideas embodied by the collections of signs associated with a discourse may or may not be logically coherent but they always have an internal organising rationale which establishes criteria of acceptability, determining which kinds of behaviours or identities are appropriate and which are not (Gregory 2000, p. 180). Discourse refers not only to sign systems themselves but also to the practices through which those signs are disseminated and promoted and the way they influence behaviour. To quote Fairclough (1995, p. 74):

> I see discourse as a complex of three elements: social practice, discoursal practice (text production, distribution and consumption), and text, and the analysis of a specific discourse calls for analysis of each of these three dimensions and their interrelations. The hypothesis is that significant connections exist between features of texts, ways in which texts are put together and interpreted, and the nature of social practice.

Discourse analysis draws attention to the way particular regularities or permanences in language and other sign systems can play a role in constructing the people who engage with them; these regularities help to fashion how people understand themselves, their relationships with other people and things, and what is normal behaviour for groups with which they identify. Language does not "merely convey social experience, but play[s] some major part in constituting social subjects (the subjectivities and their associated identities), their relations and the field in which they exist" (Purvis & Hunt 1993, p. 474). Thus the narratives regarding rape which Marcus criticises—those which portray all men as potential rapists and rape as something which women are powerless to stop—do not just convey ideas for women and men to consider, they also influence how men and women understand themselves and how they can and should relate to each other. Hall conveys this role of discourse in identity formation when he describes discourses as "sets of ready-made and pre-constituted 'experiencings' displayed and arranged through language" (cited in Purvis & Hunt 1993, p. 485).

While Hall's definition usefully illustrates the connection between discourse and identity, his use of the terms "ready-made" and "pre-constituted" carries the implication

that discourses organise experience in a direct and formulaic manner. In contrast Purvis and Hunt (1993, p. 486) suggest, "discourses 'channel' rather than 'control' the discursive possibilities, facilitating some things being said and others being impeded". Fairclough (1991, p. 38) similarly characterises discourses as a "diffuse set of tendencies" which create a "field of potential meaning". He takes as a case-study the use of the term "enterprise" in speeches by a UK Minister in Margaret Thatcher's government during the 1980s. The Minister's speeches deliberately slide between two different meanings of enterprise: private enterprise and enterprise as the willingness to engage in daring endeavours. The Minister does this in order to valorise business activity and business people but also as part of an attempt by Thatcher's government to promote particular kinds of behaviours by workers and managers. These behaviours are defined using generic terms such as "the ability to perform" and "taking charge". In one speech the Minister describes a Youth Training Scheme as being "about enterprise: about encouraging and helping young people to make and take opportunities, to take responsibility and welcome change" (cited in Fairclough 1991, p. 46). Part of the Minister's goal is to help create and legitimise a field of meaning in which workers and managers unquestioningly accept that "enterprising" is a good thing to be. To quote Purvis and Hunt (1993, p. 494) discourses can provide "ways of thinking that seem so natural they are not scrutinised". Discourse analysis therefore draws attention to ways in which power can be exercised without those how are being influenced necessarily being aware of what is happening. People may believe they are freely fashioning their own sense of self or simply "being themselves" when actually their sense of who they are and what they could and should be doing is being constrained by the discourses in and through which they live.

This does not mean that discourses are inflexible and unchanging, nor that discourses are distinct entities which are closed off from each other. Purvis & Hunt (1993, p. 492) draw attention to Foucault's distinction between "discourse" and "discursive formation": a discipline such as medicine can be regarded as a discursive formation and different discourses regarding medical practice may interact and compete with each other within that discursive field. Similarly the social practices associated with men opening doors for women could be characterised as a "discourse of door opening"

which operates within the discursive formation of "various ritualised gender roles" (Purvis & Hunt 1993, p. 492). Purvis and Hunt characterise "every discursive formation" as "to some degree open"; noting that within all discursive fields there is tension between projects of unification and coherence and tendencies towards "dispersion, choice, division and opposition". Fairclough (1995, p. 78) is also interested in the ways in which discourses can change as "innovation and creativity" contravene conventions and expectations and create new alignments of discursive elements.

This raises questions connected intricately to power and resistance. What processes limit the variety of discourses and influence their relative durability and impact? How can dominant discourses be challenged and displaced? Fairclough enlists Gramsci's concept of ideological hegemony in order to address these issues. Gramsci argued members of the economically dominant class in a society cannot simply impose their rule on others; they need to build alliances with other social forces and exert intellectual and ethical leadership in order to persuade other groups to internalise values and norms which reinforce the dominant classes' control over politics and the economy. For Gramsci any equilibrium achieved by these processes of alliance-building and promotion of ideology is likely to be somewhat unstable and to require regular readjustment. This is because there will be ongoing tensions and economic, political and ideological struggles between different economic classes and blocs, struggles which will take place across a broad range of institutions including civil society arenas such as educational institutions, trade unions and families (cited in Fairclough 1995, pp. 76-7). Applying this principle to discourse analysis, Fairclough (2005) suggests any "relatively stabilised and durable network of social practices" includes an "'order of discourse', a relatively stabilised and durable configuration of…different discourses, different genres and different styles which are articulated together in a distinctive way".[9] For Fairclough the development of these *orders of discourse* reflect the kind of processes which

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[9] Fairclough (2005) defines genre and style as follows: "A genre is a particular way of acting socially, which means acting together, ie interacting; for instance, there are different genres for consulting, discussing or interviewing. A style is a particular way of being, ie a particular identity; for instance, there are distinguishable ways of managing or 'leading' in organisations which can be characterised as different styles". Fairclough's (2005) use of the terms "genre" and "style" reflects distinctions he draws in his later rather than his earlier work. In his earlier work what he describes in this 2005 article as genre and style were incorporated in his understanding of discourse. For the purposes of this thesis I will not distinguish them from discourse.

Gramsci describes: different discourses are combined in a regularised manner in such a way that alliances can be constructed and consent for particular practices established. Given the political nature of orders of discourse, describing them requires more than listing the discourses involved: it is necessary to analyse how they are articulated together and how they relate to each other. Fairclough (2005) writes:

> So the order of discourse of a particular organisation will include discourses…whose distribution is complementary, corresponding to different parts and facets of the organisation, but also discourses…which are potentially conflicting alternatives, whose relations are defined in terms of dominance, resistance, marginalisation, innovation, and so forth. If an order of discourse constitutes a system, it is a system which may be more or less stable and durable, or stable in some parts and unstable in others, more or less resistant to change or open to change.

Returning to the example of enterprise discourse, Fairclough (1995) notes Britain's transition from a focus on manufacturing to a service-based economy required workers to develop new kinds of skills and take on new responsibilities; to paraphrase Gramsci it required the elaboration of a new type of person suitable to the new type of work (cited in Fairclough 1995, p. 105). The propagation of "enterprise discourse" by the Thatcher government was part of an attempt to achieve this, and hence considerable resources were mobilised to promote it. Fairclough (1995, p. 77) presents an analysis of the way Thatcher's government sought to merge and adapt various discourses to build alliances and win consent:

> Thatcherite discourse…has brought traditional conservative, neo-liberal and populist discourse elements into a new mix…This discoursal rearticulation materialises an ideological project for the constitution of a new political base, new political subjects, and a new agenda…the rearticulated order of discourse is a contradictory one: authoritarian elements coexist with democratic and egalitarian ones…patriarchal elements with feminist elements, but always with the latter member of each pair being contained and constrained by the former.

Fairclough recognises most discourse does not relate directly to tensions between economic classes or other nationally-scaled political forces. Nonetheless he argues the principles associated with Gramsci's concept of hegemony—the need to build alliances, the need to integrate and win the consent of subordinate groups, the tendency for any equilibrium achieved to be open to challenge and hence more or less stable depending on the stability of power relationships—can be applied to analysis of "local processes of constituting and reconstituting social relations through discourse" (Fairclough 1995, p. 78). Unlike Gramsci, Fairclough (1991, p. 49) does not see political success by a revolutionary party as the primary means of opposing hegemonic discourses. Instead he suggests a number of techniques and processes by which dominant discourses can be challenged. At the level of text, activists can seek to adapt or challenge particular signs; in the case of the use of the word "enterprise" this may involve:

> …a matter of struggle over the meaning of "enterprising" by perhaps applying it to activities distant from business, or of drawing upon an alternative vocabulary (e.g. focusing upon cultivating creativity rather than enterprise in education), or constituting alternative subject positions in discourse.

Fairclough recognises developing alternative discourses which challenge dominant discourses requires more than creating alternative texts and producing and disseminating them in a manner which facilitates their willing consumption by wider populations. For alternative discourses to be part of successful strategies to change social practices the new representations and imaginaries associated with the alternative discourses need to be operationalised in the form of practices and experiences which reinforce the alternative discourse's internal rationale (Fairclough 1995, p. 90; 2005). Applying this to the case of Marcus' work on rape, if her alternative 'rape script' is to displace dominant discourses then her script needs to gain wide circulation and it needs to be performative: women who change their self-understanding and behaviour as a result of engaging with those scripts need to have experiences which are consistent with the scripts' inherent ideas. For example, women who accept Marcus' alternative perspective may feel more self-confident, less afraid, more able to challenge men's behaviour and so on.

There is a view that discourse theories' focus on language is politically conservative in effect, if not intent. The Australian indigenous rights activist Noel Pearson has for example been quoted as saying: "Postmodernism has a lot to answer for. While the best and brightest in our universities have been preoccupied with deconstructing signs and symbols, the forces of conservatism have been busily deconstructing our society".[10] In light of the above discussion there are at least two answers to this. First, discourse highlights the role of language in constructing people's sense of themselves and what they can and should do. It is of little use trying to motivate people to take political action if they believe that action has no chance of generating desirable change, or if such action contravenes an unquestioned sense of morality created by a dominant discourse. Exposing and challenging discourses which disempower people is frequently a necessary precursor to political activity (Fairclough 1995, p. 83). Second, discourse theory, at least as applied by Fairclough, Gibson-Graham and others, not only involves analysing texts, it also involves promoting alternative discourses: amalgams of text, text distribution and practice which challenge dominant political and social practices.

Up until now my discussion of the relationship between discourse and power has assumed that power is a relatively uncontroversial and well-understood term. In fact, as Allen (2003) argues, power can be conceptualised in a variety of ways. Allen (p. 7) argues persuasively that power is best understood as "a relational effect of social interaction". He rejects representations of power as something a person or organisation can possess; instead he argues resources are utilised in the exercise of power, they do not in themselves embody it (Allen 2003, p. 105). He is similarly critical of Castells and other theorists who represent power as a force which circulates through networks in a manner akin to electricity passing through circuitry. Allen (2003, p. 65) therefore notes with approval the way Foucault's work on discourse shifts the focus of enquiry from the question of "who holds power?" to "the endless play of techniques and practices which work to secure particular forms of conduct" (Allen 2003, p. 66). However Allen is also critical of Foucaldian-inspired accounts, arguing they tend to assess power based on its intended, rather than its actual, effects—particularly when power is exercised at a

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[10] Hannie Rayson quoted Pearson during a keynote address at the Regional Arts Australia first national conference, Mt Gambier, 16-18 Oct. 1998 (see CASA 1998).

distance. Much of Foucault's analysis occurs at the level of institutions such as prisons and hospitals, places where practices of observation and punishment can play an immediate and direct role in reinforcing discourses (Allen 2003, p. 67). Allen argues most Foucaldian accounts of the exercise of power at a distance fail to provide what he calls an adequate "topology" of power: an understanding of the way in which power effects are mediated by the processes through which powerful communications travel across space. He sees many discourse theorists as too quick to assume the production, circulation and promotion of particular texts or practices by organisations imbued with authority automatically translates into acceptance by broader populations of the discourses associated with those texts (Allen 2003, p. 194). He considers for example Latour's account of British colonial administration during the 18th and 19th centuries:

> …what Latour has in mind are all the objects collected, observations made and calculations performed by the colonial bodies, which, through their scientific expeditions, cartographic plottings and taxonomic zeal, were rendered fluid and mobile…[these processes] became the means through which administrators, scientists and politicians 'back home' extended or imposed not just their understanding on distant others, but their sense of order too…[the process of circulation] involves a mediated exercise of power, where distances are overcome by the successive enrolment of others to form something akin to a single will (Allen 2003, pp. 132-3).

It is this belief that these processes of circulation can result in "something akin to a single will" which bothers Allen. Latour's "translation" model of power includes recognition that the interests and preferences of participants in a hierarchical chain of command can shape the way in which orders change as they pass from the centre to the periphery (cited in Allen 2003, p. 97). Nonetheless Allen (2003, pp. 133-40) criticises Latour for placing too much confidence in the ability of circulating techniques of power—such as particular practices of observation and recording—to operate in the same way in different contexts and to facilitate something like direct control of distant subjects.

Allen (2003, p. 134) instead portrays these circulating techniques as subject to displacement, reinterpretation and leakage, making power at a distance more of a hit-

and-miss affair. He advocates greater attention to the processes of translation of messages across space, noting these processes involve machines as well as people. Technology may have sped up long-distance communication but the technical characteristics of instruments of communication still play a role in shaping what is communicated and how it is experienced and interpreted (Allen 2003, p. 137). The human processes of interpreting, passing on and responding to messages and practices also vary from person to person and context to context:

> …the larger the number of outside interests to negotiate, the more varied the mix of resources, the greater is the potential for the disruption and dilution of any far-reaching 'certainties'. (Allen 2003, p. 134)

Allen's analysis of how power is exercised at a distance is facilitated by considering what he calls the various "modalities" of power, categories such as "inducement", "authority", "domination", "manipulation", "coercion", "seduction", "negotiation", "persuasion" and distinctions such as "instrumental" versus "associational" power (Allen 2003, pp. 5-6). Allen explores how these modalities operate differently across space and time. He takes as an example a company which wants to persuade employees in widely dispersed offices to take more responsibility and initiative at work. He argues that to achieve this using "authority" would require the direct presence of local management in those offices. In contrast "seduction", involving appeals to workers' sense of themselves, has greater potential to work at a distance (Allen 2003, p. 149). Allen's categorisation of the modalities of power provides a useful tool to analyse the processes through which people are constrained from acting in particular ways; influenced to act in others; and/or empowered to achieve particular ends.

Thinking about TNCs

The next section considers the significance of Allen's categorisation of the modalities of power, and of Fairclough's discourse analysis, for thinking about power relationships between sportswear TNCs, consumers, trade unions and labour activists. Before that, this section describes how the rejection of essentialism by a number of geographers has opened up alternative ways of thinking about how corporations function and how they

might be influenced to function differently. Essentialist accounts of the nature of corporations can be found across a range of different theoretical positions, including neo-liberalism and many strands of Marxism. In the same way that classical economists like Adam Smith and David Ricardo assumed individuals have an innate drive to increase their wealth, both neoclassical and traditional Marxist theories treat firms as the "multi-billion dollar equivalent to the theoretical rational economic man, always optimising, mitigating crises of overaccumulation, and disciplining labour" (Hamilton 2006, p. 18). From this perspective, corporations are conceptualised as unitary organisations who respond in a cohesive, management-driven manner to external economic forces. Some theoretical accounts in this tradition treat corporations as a "black box", suggesting that how a corporation will act can be predicted from the external economic context; others focus on the strategic decision-making skills of top managers (Rouleau & Seguin 1995, pp. 107-8).[11] In both cases it is assumed managers subordinate all other goals to that of economic accumulation and that, at least in successful companies, management decisions are reliably implemented by their staff.

Over the last two decades a number of economic geographers have rejected essentialist accounts of the motivations and processes which guide corporate behaviour. They instead present decentred representations of the firm, arguing a range of complex and competing processes generate corporate practices.[12] These scholars do not ignore market constraints, but they do emphasise the role which political, cultural, discursive and narrative processes play in the creation and maintenance of markets (Fligstein & Freeland 1995). Erica Schoenberger (1997), for example, argues the identities of the most powerful decision-makers within a firm can become closely linked to a particular corporate culture and corporate decisions can be driven as much by cultural identities as by profit calculations.[13] Her case-studies include Lockheed, a company she argues was slow to make the transition from producing airplanes to space research and missile production, despite considerable evidence this change in focus would bring greater

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[11] For an example of the latter approach see Clark (1994, p. 10).

[12] Although my focus here is on the work of economic geographers, some other social scientists have developed similar ways of representing corporations. For a review see Fligstein and Freeland (1995).

[13] Schoenberger's (1997, pp. 120-1) definition and use of the term *culture* is similar to the way Fairclough and Purvis and Hunt use the terms *discourse* and *discursive field* and Schoenberger's analysis of the importance of corporate culture in Lockheed, Xerox and other companies is very similar to discourse analysis.

profits and growth. She describes how from 1913 to 1950 Lockheed built up a "…very consistent and well-defined sense of its own identity as an airframe producer" and a whole range of practices, understandings and personal identities grew up around that focus. These understandings included romantic and aesthetic identification with aircraft by top executives who had built the company when aircraft and flying "…suggested the height of adventure and romance" (Schoenberger 1997, p. 161). Schoenberger (1997, p. 161) quotes Lockheed's former senior vice-president for engineering:

> You take Bob Gross and [me]. We couldn't give a damn about missiles. We didn't like missiles. We wanted airplanes!…The top guys at Lockheed were all airplane guys. They weren't missile guys. They're entirely different. The problems are entirely different and what you can do with them is different. So you can either be in that field or you can be in this field. Bob Gross and I always wanted to be in this field - flying. We liked flying.

Whereas Schoenberger's (1997) research highlights the development of cultures specific to particular firms, Linda McDowell and Gillian Court's (1994) research draws attention to the prominence of particular discourses operating across geographically-proximate firms in a particular industry. McDowell and Court investigated corporate culture within the merchant banking sector in London. Their work reveals a business culture dominated by discourses associated with sexism and masculine aggression. These discourses operate to exclude, or at least make extremely difficult, the contribution of applicants who do not have the "appropriate" gender, ethnicity, sexual orientation, accent, body type and social and educational background. McDowell and Court argue this masculinist culture has much more to do with members of a particular social group expressing a particular (macho) discourse and promoting particular identities within that discourse than with enhancing the economic viability of individual businesses. McDowell and Court (1994, p. 238) quote a company director:

> In the City the eighties were one long hard on, everybody had the horn - every thrusting merchant banker; every double-dealing broker; every hard-nosed limp-dicked lawyer…and they weren't too fussy who they screwed. Clients came. Clients went. Here today and screwed tomorrow…And was all this frenzy about reshaping British business?

Forget it. Size! Who could pull off the biggest deals? Who could demand the biggest fees? Who had the biggest cock in town? That's what it was all about.

Geographers influenced by Actant Network Theory also consider corporate decision-makers to be part of complex networks of relationships and ideas which include people outside of their firm as well as their work-colleagues (Yeung, 1997, pp. 5-6). As with Schoenberger's analysis of corporate culture, there is overlap between network approaches and discourse analysis, since network theorists also pay attention to the role of stories and patterns of language and text in creating corporate behaviour. In Thrift and Old's (1996, p. 323) words, "networks of talk…transmit specifically, morally attuned stories concerning the work of particular business practices and reputations."[14]

Much research has been done by network theorists and others on the way the ethnicity of firms is related to economic decision-making, with the way Chinese firms operate overseas often used as a case-study (Thrift & Olds 1996, p. 324; Yeung 1997). Based on interviews with executives of 111 Hong Kong TNCs operating in the ASEAN region, Yeung (1997) powerfully demonstrates that economistic models which ignore personal relationships and cultural practices fail to adequately explain corporate behaviour. He insists that "business executives do not always base their investment actions on economic considerations per se…network relationships play an equally, if not more vital role" (Yeung 1997, p. 2). He demonstrates that the way Chinese firms operate is culturally specific and that relationships of trust are particularly important in their economic decision-making. Within these firms, power tends to be distributed between family members and close associates and dependence on "non-belongers" for technical and managerial skills is deliberately limited (Yeung 1997, p. 6). When companies look to form joint ventures with firms overseas, previous relationships of trust play a key role in choosing a business partner. Transnational operations are motivated "by personal relationships rather than by purely abstract economic cost and benefit factors" (Yeung 1997, p. 14).

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[14] See also Boden (1994) for analysis of the way verbal communication between business people structures and influences business practice.

Whereas Schoenberger, Yeung and McDowell and Court emphasise the dominance of particular regularly repeated constellations of language, identities, interactions and practices—whether characterised as cultures, discourses or networks—O'Neill and Gibson-Graham (1999) instead emphasise the discontinuity, instability, contradiction and conflict inherent in corporate activity. O'Neill and Gibson-Graham (1999) review approaches to corporate theory in a variety of disciplines and argue that, while the variety of theories which are flourishing demonstrates the complex, fragmentary and unstable nature of corporate activity, most theorists implicitly assume that stable reproduction is the norm. Their case study relates to arguments amongst decision-makers within the Australian mining giant BHP regarding closure of its Newcastle steel works in the 1980s. Their interviews with men who were senior executives in BHP at the time indicates a range of different and often conflicting motivations drove debate regarding the possible closure of the steel works: such motivations went well beyond advancing the company's profit and growth position and included personal ambitions, political rivalry and personality clashes. The interviews also suggest the processes by which decisions were eventually made involved a far wider range of processes than the "standard account of a hierarchical organisation with a formal chain of command and jointly agreed upon goals" (O'Neill & Gibson-Graham 1999, p. 15). Tactical ploys, political rivalry, personality clashes, gamesmanship, networks of relationships and "talk" had as much a part to play in decision-making as BHP's formal decision-making structures. Their interview material also demonstrates the uncertainty and confusion among decision-makers within BHP about which path should be taken, in contrast to usual narratives which emphasise the rational and logical nature of corporate decision-making.[15]

In a later paper Gibson-Graham and O'Neill (2001) argue that recognising the discontinuity and conflict inherent in corporations opens up room for alternative corporate identities to be promoted and for the assertion of alternative demands on

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[15] O'Neill and Gibson-Graham are not alone among geographers in drawing attention to conflict and instability within corporations. Clark and Wrigley also argue "the firm is riven by unresolved conflict among the various internal stakeholders …about the proper and possible path of accumulation" (Clark & Wrigley 1997, p. 289). Thrift and Olds (1996, p. 314) emphasise that "organisations are always and everywhere tentative and temporary" and Schoenberger (1997, p. 8) recognises that a production system "contains within itself significant tensions, pressures and constraints that continually reproduce the conditions for conflict, dislocation and change".

corporate resources. They note corporations extract revenue from a great many more sources than their labour force alone, and they distribute that revenue to many more destinations than merely towards the expansion of productive capital or providing returns to investors. This variety in sources of revenue suggests a wide range of constituencies which could be seen as having legitimate claims upon the corporation. O'Neill and Gibson-Graham describe how a court case and media campaign by Papua New Guinean villagers and environmental activists in response to environmental damage from BHP's Ok Tedi mine resulted in a significant financial payment by BHP to the villagers and considerable expense for the company in redressing the environmental damage it had caused. This case was also a catalyst for the introduction of BHP's Guide to Business Conduct - a "corporate initiative… which may potentially herald a new accounting regime in which distributions to secure both worker and community rights and preserve the environment become part of the regular cost calculus of the corporation" (Gibson-Graham and O'Neill 2001, p. 72). They argue the Ok Tedi case has forced BHP to move towards a new sense of its own identity, one which is starting to incorporate some of the values and priorities of its antagonists.

Sportswear brands as vulnerable giants?

If it is accepted that these freer, less monolithic understandings of the corporation open up possibilities for the promotion of alternative corporate identities and practices the question then becomes how such alternatives might be effectively advanced. How can workers and other citizens best insert themselves into the networks of talk and personal relationships whose role in reproducing corporate behaviour has been highlighted by network theory? How can they best influence the development of corporate cultures and subcultures whose significance Schoenberger highlights? How can they develop and promote alternative discourses which successfully influence the identities and practices of decision-makers within TNCs? In the remaining chapters of this thesis I explore these questions in the context of attempts by workers and civil society activists to influence the labour rights practices of sportswear TNCs. In the remainder of this chapter I outline in broad terms how Allen's analysis of the geography of power and Fairclough's arguments regarding the processes by which discourses gain and maintain hegemony assist me in this enterprise.

As I state in the introduction, when I first became involved in the international campaign targeting Nike's labour practices I did so without any great hope that the campaign could be successful in influencing the company's practices. Comparing Nike's financial resources with those of the organisations and individuals participating in the campaign it seemed to me obvious that our efforts were destined to be overwhelmed. In Allen's (2003, pp. 109-10) terms I was making the mistake of equating power with the possession of resources. Power analysis which instead focuses on the specific ways in which Nike exercises power generates a different perspective on the company's vulnerability. For Nike the company's most important relationship is with the people who buy its products. In terms of Allen's modalities of power, the power Nike exercises here has little to do with "authority", "domination" or "coercion": it could perhaps be best characterised as a combination of "seduction" and "inducement". As Allen notes, the latter forms of power do not force themselves onto people, instead they entice particular kinds of behaviour by appealing to and attempting to shape people's values, sense of identity and perceived needs and wants. These kinds of power are to some extent hit and miss, dependent on how people receive and respond to a company's enticements. Effective use of this kind of power depends not only on the company's skills in the art of seduction and the resources which are mobilised in the pursuit of that art but also on the extent to which other messages, values and identities interfere with the seduction process.

Like other TNCs which market goods to consumers, Nike exercises this power through marketing campaigns which promote particular discourses or "brand identities". These campaigns are the company's central priority; in the words of the company's CEO Philip Knight:

> For years we thought of ourselves as a production-oriented company, meaning that we put all our emphasis on designing and manufacturing the product. But now we understand that the most important thing we do is market the product…[16]

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[16] Cited in Klein (2000, p. 24).

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Nike's annual advertising expenditure grew from less than US$50 million in 1987 to close to US$300 million in 1993 and again to US$500 million by 1997 (Klein 2000). In addition the company spends considerable amounts on athlete sponsorship. Nike has an endorsement contract with golfer Tiger Woods which involves paying him US$100 million over five years (*Los Angeles Times* 2001) and another with the Brazilian national soccer team which costs US$160 million over ten years (*The Australian Financial Review* 2001b). As of 2006, the company's total marketing budget was US$1.7 billion[17] a year—more than 10 per cent of the company's annual revenue (*Good Magazine* 2007). The company's image-makers have used these resources to build a flexible and multi-faceted brand that is simultaneously "…serious and 'cool,' socially conscious and fashionable, earnest and ironic…" (Knight & Greenberg 2002). The company has also used its relationships with highly successful sportspeople to associate its brand with courage, self-confidence, aggression, hard work, determination, individual achievement and racial tolerance. It has sought to increase its appeal to particular audiences by initiating advertising campaigns which highlight the manner in which certain people—women, people with disabilities, people of particular ethnic backgrounds—face social and economic discrimination. Some of Nike's most prominent sponsorship relationships have been with US athletes from ethnic backgrounds that are commonly subject to prejudice. The signing of African American basketball star Michael Jordan as an endorser in 1984 has in itself been credited with playing a key role in reversing the company's revenue slump in the early 1980s (Landrum 2000). Similarly Nike's relationship with golfing icon Tiger Woods was a key part of the company's strategy to break into the US$820 million golf ball market in the United States (*Associated Press* 2000; *The Courier-Journal* 2000). Woods' first TV Commercial with Nike highlighted his exclusion from certain golf courses in the US because of his ethnicity (OWO 2002). The company's advertising campaigns commonly promote individual participation in and commitment to sport as a means of overcoming disadvantage (Knight & Greenberg 2002). At times, as with its Participate in the Lives of America's Youth campaign, the company has gone further and attempted to mobilise citizens to engage in socially motivated action, in this case to volunteer time to enable young people in the US to play sport. Cole (1996) argues Nike used that campaign to

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[17] In this thesis, billion is used in the US sense and means 1 000 000 000.

identify itself with a particular vision of US national identity in which racial and other differences are subsumed within a set of collective values to create an idealised national community.

As I discuss in Chapter 4, the anti-sweatshop movement has had significant success in undermining Nike's marketing message by drawing attention to the striking contrast between the company's socially-conscious image and the highly exploitative conditions under which workers—predominantly young women in developing countries—produce the company's product. The stark difference between workers' wages and the amounts paid to athletes in endorsements has, for example, provided activists with a rich source of parody,[18] as has Nike's advertising campaigns in support of women's empowerment in the US.[19] Precisely because Nike's brand image is so prominent in the public arena, research reports into exploitative labour conditions in the company's supply networks have been of considerable interest to journalists and their readers. Arguably the more effectively Nike's marketing experts projected a positive socially-conscious brand image into mainstream cultural awareness, the more vulnerable the company's brand became to public exposure of oppressive factory conditions in its networks of production.

Of course, the anti-sweatshop movement does not only want to undermine and interfere with companies' efforts to seduce consumers: it wants to leverage this interference in order to improve the labour conditions of the workers who make companies' products. Hypothetically, if labour activists approached this issue from the perspective of Fairclough's work on orders of discourse, they might frame their goal as the promotion of alternative discourses among and within TNCs and factory/workplace suppliers. In line with Fairclough's definition, these alternative discourses would need to involve three elements: verbal and non-verbal sign systems which mark out some behaviours, ideas or identities as acceptable and others as unacceptable; the dissemination and circulation of those sign systems; and practices which are influenced and promoted by

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[18] Anti-sweatshop activist Jeff Ballinger for example drew attention to the fact that the US$20 million Nike paid to US basketballer Michael Jordan in 1993 was four times the annual wage bill for the 12 000 Indonesian women making Nike shoes (Shaw 1999, p. 23).
[19] See for example *Ms. Magazine* (1998).

those sign systems. Activists utilising Fairclough's ideas would not just want representatives of TNCs and their factory suppliers to mouth public assertions regarding the importance of labour rights. Instead they would want sign systems which value respect for labour rights to gain some influence over the identities of business-people working within TNCs and their factory suppliers, at least to the extent that these business-people come to treat some business practices as normative and others as inappropriate. Labour activists applying Fairclough's analysis would also want to help facilitate the establishment of patterns of regularly repeated practices by the relevant business-people which enact respect for labour rights and which tend to generate outcomes which reinforce the acceptance of this labour rights discourse.

If they drew on Fairclough's discussion of orders of discourse and O'Neill and Gibson-Graham's analysis of instability and conflict within corporations, these hypothetical labour activists would not expect alternative discourses regarding labour rights to suddenly and completely displace existing dominant discourses operating within TNCs. Nor would these activists expect the alternative discourses they promote to be completely excluded, particularly if the activists were having success in promoting their alternative discourses among populations which were important to companies, such as consumers of their products. Instead these activists would expect their alternative discourses to clash with existing dominant discourses regarding how business people should act, generating conflict both between and within decision-makers in TNCs. These activists would expect different decision-makers within these TNCs to take different positions regarding the extent and the manner in which alternative labour rights discourses should become part of the companies' processes of reproduction. At various points of time these activists would expect particular compromises to be struck regarding the nature and position of labour rights discourses within a companies' self-reproduction and for an associated order of discourse to become established within the company, at least for a period of time. Depending on the extent to which particular compromises fall short of what they believe to be appropriate labour practices for TNCs, these labour activists may seek to mobilise resources to displace and unsettle these newer orders of discourse and hopefully facilitate new compromises which bring greater benefits to workers. Although it would be difficult to find many workers or

labour activists who frame their interaction with sportswear brands in the same way as the hypothetical activists I describe above, in this thesis I argue that Fairclough's analysis suggests valuable perspectives on what impact the anti-sweatshop movement has had so far and how it might develop new strategies to increase its effectiveness.

Conclusion

In the quotation which opens this chapter Priest notes that later Buddhist philosophers reject the assumption, prominent in Western philosophy, that there can be substances: entities which exist and have properties independent of their interaction with other processes. In an earlier radio interview in this series, Priest describes how—like Harvey, Gibson-Graham, Fairclough[20] and a number of other Western scholars discussed in this chapter—these Buddhist thinkers instead understand the universe and all entities within it to be constituted and continually reconstituted by the interaction of multiple processes: a philosophical position I have called overdetermination. This position leads later Buddhist thinkers to reject the idea of a coherent, stable, unitary self; human consciousness is instead portrayed as the result of multiple, constantly changing processes. Within some strands of Buddhism there are also particular ethical implications regarding human responsibility drawn from the interconnectedness of humans with all other parts of the world (*ABC* 2006).

In this chapter I have been less interested in what overdetermination means for conceptions of the self—although the role of discourse in shaping personal identities has been an important theme—and more interested in drawing out its implications for me in the context of this thesis project. Influenced in different ways by a variety of scholars, including Gibson-Graham, Sayer and Eco, I seek to apply the principles of overdetermination in a way which is neither essentialist nor relativist. Recognising that essentialism is inconsistent with overdetermination, I describe the process of theorising as a kind of strategic essentialism—adapting Spivaks' use of the term. As I develop ideas about the interaction of TNCs, workers, social activists, states and other actors, I do so knowing these ideas are necessarily simplifications of a much more complex

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[20] See Fairclough (2005) in which he mentions the influence on his work of Harvey's (1996) description of dialectics.

reality. I am aware that as I construct these simplifications I am not "discovering" essential structures or processes which are playing a dominant role in determining how events play out. The principles of overdetermination mean there can be no simpler, dominant processes because every process is constantly being influenced and re-constituted by other processes and no process would exist in the same way without that interaction. Nor, however, do I develop these ideas in an arbitrary manner, or regard them as being of equal value as all other possible ways of conceptualising these processes. Knowing my accounts cannot capture reality, I seek to make them practically adequate in the sense outlined by Sayer (1992). I develop models which explain what I know about how these actors and institutions have interacted with each other in the past, generate expectations about how they will do so in future and suggest strategic interventions which may impact on those interactions in particular ways. I do not develop these ideas from scratch; I rely on research and analysis previously conducted by scholars in geography and other related disciplines and I conduct my own research using methods which have become established within the wider academic community. , Although I necessarily bring biases and expectations to the research process, these expectations do not completely determine research outcomes. Instead the research throws up new insights which challenge and help develop my ideas. Although I know there can be no absolute measure of the relationship between these ideas and the wider reality they both participate in and seek to represent, following the thinking of Eco and Sayer, I believe this contribution to the work of the wider research community can help develop useful representations of power relationships between TNCs, activists and other actors.

In developing these representations I benefit considerably from the way a number of economic geographers have extensively reconsidered the motives guiding corporate practice. Schoenberger, Gibson-Graham, O'Neill, McDowell, Court, Yeung and other scholars have radically called into the question a popular essentialist account of corporations which treats them as rational, unitary entities which implement coherent strategies designed to maximise accumulation. These scholars instead present a decentred view of the firm, portraying decision-makers within corporations as negotiating fields of competing logics and motivations, guided by their prejudices,

cultural affinities, power-plays, sense of personal identity, networks of relationships and by cultural and political arrangements both external and internal to the firm. They represent discourse and narrative, as manifested in processes as diverse as corporate talk and accounting systems, as playing a crucial role in framing corporate direction.

These approaches create space for the assertion of more socially oriented demands on corporate practice. In this thesis I consider the effectiveness and sustainability of attempts by workers and labour activists to demand respect for labour rights within the supply networks of TNCs. In seeking to understand and interpret their efforts, I benefit particularly from Allen's work on the geography of power and Fairclough's thinking about the role of discourse in power relationships within and across institutions. From Allen I take the need to analyse the specific processes through which power effects are generated; TNCs' access to financial resources and technical expertise in marketing and public relations do not, for example, automatically translate into influence over consumers. There are complicated processes of translation involved in the way in which marketing messages are communicated and received and there are considerable opportunities for activists to interfere with these processes in pursuit of their wider goals. From Fairclough I take the importance of attention to the processes whereby particular discourses—understood as amalgams of sign systems and social practices—become incorporated into an order of discourse: a configuration of relationships between discourses which allow organisations or other groupings to reproduce themselves in particular ways. Chapters 4, 5 and 6 consider how discourses promoted by labour activists have become incorporated into orders of discourse operating among consumers, sportswear TNC and factory suppliers, and suggest ways in which these orders of discourse might be unsettled and changed. Before that, Chapter 2 explains how this thesis fits within debates regarding the relationship between TNCs and the global labour movement.

Chapter 2

Just fading away? Globalisation and the future of organised labour

Torn by internationalisation of finance and production, unable to adapt to networking of firms and individualisation of work, and challenged by the engendering of employment, the labour movement fades away as a major source of social cohesion and workers' representation.

Castells (1997)[21]

[A] fluid, larger social layer of between 20 per cent and 30 per cent of the world population (workers and their families)…labour in insecure forms of employment, thrown into cut-throat competition in the global market.

Hoogvelt (2006, pp. 163-4)[22]

…we have to …build networks of people globally who can help us to counter neoliberalism…We need to build links with the legal profession and with members of parliament who are sympathetic. We need to start looking at how we make ourselves more relevant to NGOs, civil rights groups, churches and so on. We all have a number of objectives which are essentially common, and we should be working together.

John Maitland, talking about his plans as President of ICEM, 1999[23]

Addressing the backlash against globalisation: What we are witnessing is not a backlash but pangs of birth. And it is not against globalisation but for a new internationalism…How remarkable it is that millions of young people are communicating about sweatshops across the World Wide Web…Or that workers, environmentalists, religious leaders and students are coming together to call for workers' rights and human rights and consumer and environmental protections in the global economy. A new morning is dawning and we should rejoice in it.

John Sweeney, President of the AFL-CIO[24]

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[21] Cited in Munck (2002, p.17).

[22] This percentage is based on analysis of global trade and investment figures and of distributions of wealth and employment within nations. Hoogvelt (2006, pp. 163-4) characterises another 20 per cent of the world's population as the "core circle" of "elites of all continents and nations", who enjoy stable and relatively bountiful incomes. He characterises the remaining 50 to 60 per cent of the world's population as effectively excluded from the "globalised" economy due to a variety of factors which vary according to their geographical location but which include political instability, distance from established consumer markets and lack of access to skills and education.

[23] ICEM is the International Federation of Chemical, Energy, Mine and General Workers' Unions. Maitland made this statement in an interview with David Sadler (Sadler 2004, p. 43).

A particular way of representing the relationship between transnational corporations (TNCs) and workers involved in the increasingly global competition for jobs has become so popular that Wills (1998, p. 112; 2001, p. 485) describes it as "something of an orthodoxy" and "now largely taken for granted".[25] According to this orthodoxy, since the 1970s TNCs have been able to relocate production in order to minimise labour costs and maximise labour control, with labour-intensive production tasks in particular moving from industrialised nations to poorer countries in the so-called 'developing' world. TNCs are portrayed as engaging in jurisdiction shopping which forces developing country states into a "race to the bottom" where they compete for investment on the basis of the extent to which they curtail workers' human rights, particularly the rights to organise and bargain collectively (Murray 1997). This orthodoxy gives workers and their organisations little hope of effective resistance since traditional strategies of striking, demonstrating and voting are all considerably reduced in effectiveness when companies can move production to a different country or to a different factory in the same country relatively easily (Markoff 1999). As Massey (1995 cited in Collins 2003, p. 9) put it, "The spatial mobility of capital is pitted against the geographic solidarity of labour. Capital can make positive use, in a way labour cannot, of distance and differentiation."

Wills draws attention to this orthodoxy in order to question it. She is one of many academics who argue this perspective presents an overly simplified understanding of the strategies and motivations of TNCs and of the power they exert over states and workers. While recognising the international union movement is facing considerable difficulties—with trade unions in decline across the industrialised world and struggling to gain a foothold in industrialising countries—Wills (1998, p. 113) is also part of a

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[24] AFL-CIO stands for the American Federation of Labor-Congress of Industrial Organisations, the largest federation of unions in the US. The above quote is an extract from a speech Sweeney made at the World Economic Forum in Davos in January 2001.

[25] This view that TNC's flexibility to move production between low-cost production sites poses tremendous challenges for organised labour started to gain currency with the publication of the English translation of Fröebel et. al.'s *New International Division of Labour* in 1980. Wills (1998) cited Burawoy, Storper, Walker, Beynon , Hudson, Tilly, Hobsbawm, Korten and Castells as writers who continued to promote this perspective. Castells' influential three-volume work *The Information Age* (1996, 1997, 1998 cited in Munck 2002, pp. 17, 190) barely mentions trade unions and—as the quote at the beginning of this chapter demonstrates—when he does he is pessimistic regarding the future of the trade union movement.

smaller group who refuse to take it for granted that trade unionism will continue to decline. In this chapter I first outline the arguments put to question the "race to the bottom" perspective, and then assess the applicability of these arguments to the global clothing and footwear industry; a sub-set of this industry—the sportswear sector—is the focus of my field research. These arguments include alternative accounts of the constraints which TNCs' face and the strategies they are pursuing; alternative accounts of the power of states; and alternative accounts of the power and agency of workers and their organisations.

TNCs' constraints and strategies

A number of researchers point out that TNCs use complex strategies to maintain and maximise profits such that minimising costs is only one of a number of considerations taken into account when deciding where to locate production. Rather than labour costs, Schoenberger (1997) suggests TNC decisions regarding the location of production are driven by accessibility to consumer markets; the stability of the political environment; and the quality of available social, economic, technical and physical infrastructure. In her many interviews with corporate executives labour costs were often referred to as "miniscule" or "irrelevant" (Schoenberger 1997, p. 75). The increasing popularity of just-in-time methods of linking production to consumption, for example, means the physical proximity of various parts of production to each other and to markets is increasingly important (Schoenberger 1997). Cox (1997, p. 179) notes profit-making in many industries is driven more by the invention and development of new products than by cost minimisation; hence the availability of highly skilled workers can be a more important factor influencing the location of production than low wage costs. Castree (2000, p.284) questions the portrayal of TNCs as hyper-mobile, arguing TNC investment in plant, equipment and supplier networks creates a level of locational inertia which can be exploited by workers seeking to negotiate better wages and conditions.[26] Like Castree (2000, p.284), Schoenberger (1997, p. 74) argued investment data contradicts the view that manufacturing jobs are continually being moved to wherever labour is most exploited; instead productive investment continues to be

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[26] Castree also questions the emphasis on TNCs, pointing out the majority of waged workers worldwide are still employed by medium and small firms whose mobility is usually limited to national or sub-national levels (see also Munck 2002, pp. 67, 80).

concentrated in large industrial regions located in, or close to, corporations' primary consumer market zones of North America, Europe and the Far East. In 2006, intra-regional trade flows within North America, Europe and Asia accounted for 53 per cent of global merchandise trade, and inter-regional trade between those three regions accounted for a further 23 per cent of that trade (WTO 2007, p. 3). In each of those three regions manufacturing exports accounted for more than three-quarters of total merchandise exports, as compared with less than a third in Central and Southern America, the Combined Independent States, the Middle East and Africa (WTO 2007, p. 4).

Globalising capital and the power of the state

Claims that state power is declining in the face of globalising capital have become less popular among political analysts in recent years. That aspect of the "race to the bottom" view has been modified into accounts of the "transformation" of state power. To quote Weiss (2005, p. 345):

> In this updated vision, global integration acts as a force that constrains states and reshapes institutions, severely restricting the room for manoeuvre, standardising domestic institutions and dispersing decision-making authority downwards, upwards and sideways to other power actors.

Weiss (2005) and Cox (2002) question the way this popular and influential account portrays states and capital as separate institutions engaged in a win-lose conflict. They argue states have cooperated with corporations in the material and discursive construction of globalising trade; states have mediated and facilitated capital's restructuring. Rather than portraying a conflict between globalising capital and location-bound states, Weiss (2005) and Cox (2002, p. 104) draw attention to the conflict between particular state-capital alliances. Weiss (2005, p. 349), for example, describes how developed country governments and corporations have sought to influence WTO rules and processes in order to advance their own interests at the expense of governments based in less developed countries. She notes global networks of governance such as the WTO, "are inextricably tied to the organisational and normative

resources of constituent states" and concludes processes of globalisation are augmenting rather than constraining state power (Weiss 2005, p. 352).

Highlighting the role of state-capital cooperation in the globalisation of production demonstrates the ongoing power of the state but does not necessarily increase confidence that state authority will be mobilised in support of labour movement goals.[27] I am persuaded by accounts of the state which look beyond state-capital alliances to also consider the way national histories, cultures and social structures construct unique political processes, and how these processes mediate the way state institutions respond to the ongoing struggles between the constellation of interests seeking to influence state policies and practices (see for example Palan et. al. 1996, pp. 40-42). From this perspective the extent to which workers and their organisations are influencing and participating in state policy-making in each country cannot be generalised from global processes, it needs to be examined empirically. As I discuss later in this chapter, and in Chapter 6, despite the pressures which capital mobility place on states, in some developing countries workers and their organisations continue to have significant influence over state practices.

Geography of labour versus labour geography
A number of geographers draw attention to the way popular accounts of globalisation are themselves used for political purposes: to persuade workers and other social movements of their powerlessness in the face of global capital (Gibson-Graham 1996, p.254; Cox 1997, p.184; Wills 1998, p.114). More generally, Herod (2001, pp. 18-32) and Gibson-Graham (2002) are critical of the way most economic analysis represents capital as dominant and workers as complying with and/or responding to economic structures established and sustained by capital. In 1997, Herod called for the "geography of labour" to be supplemented/supplanted by a "labour geography" which recognises the role of workers and their organisations as economic agents actively participating in the construction of economies (Herod 1997). In 2001, Fagan described four strands of enquiry in this emerging field of 'labour geography'. Two of these are particularly

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[27] Structuralist Marxist accounts for example portray state-capital alliances as separate from and in conflict with labour movements (described in Dear 2000, p. 789). Cox (2002, pp. 105-6) seems to have some sympathy with this structuralist position.

relevant here: the construction of geographic scales and the "internationalisation of trade unionism, its future development and links with local labour strategies".[28]

Geographers participating in this new sub-discipline of geography give considerable thought to theories of scale (Fagan 2001; Herod 2001, p. 43; Herod & Wright 2002; Sadler & Fagan 2004; Smith 2000). These geographers reject what Sadler and Fagan (2004, p. 27) call an understanding of scale based on the idea of "space as hierarchically ordered container". That is, they reject the idea of scales such as "the global", "the national" and "the local" as pre-given arenas of action and analysis and instead draw attention to the way scales are constructed. These writers' discussion of the politics of scale is theoretically rich but for our purposes two ways of thinking about the construction of scale are important: scale as a narrative device and scale as the construction of spaces of engagement.

Fagan (2001) notes geographic scales can be conceptualised as "purposefully constructed starting points for narratives about social change". This aspect of scale has less to do with interactions across space and more to do with how those interactions are described and how those descriptions are promoted to achieve particular political ends. Sadler and Fagan's (2004) analysis of the 1998 dispute between Patrick Stevedores and the Maritime Union of Australia (MUA) illustrates the importance of this aspect of scale. Patrick Stevedores worked closely with the Australian government during that dispute and both believed they could win the public debate by foregrounding the need for Australia to reform work practices on the waterfront in order to maintain its competitiveness in global markets. They therefore portrayed the dismissal of Patrick's unionised employees as "a necessary response to forces from 'out there'—the global scale" (Sadler & Fagan 2004, p.37). The MUA both contested Patrick's account of the global scale and promoted narratives which featured other scales. They appealed to Australians' imagined national identity by portraying the appearance of masked men and police with dogs on the waterfront as "unAustralian" (Sadler & Fagan 2004, p.38). They also drew attention to the very localised scale of individual bodies and identities:

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[28] The other two strands identified by Fagan (2001) are "the geography of trade unionism particularly in relation to membership densities, recruitment and retreat" and "unions and the construction of regional and local economies".

the impact on unionised waterfront workers and their families of being sacked and locked out of their jobs (Fagan 2001).

Herod (2001, p. 43) recognises that scale operates as a narrative device but also describes it as "emerging contingently out of the ways in which actors build spaces of engagement that link various spaces of dependence".[29] The MUA's use of scale during the 1998 dispute was not limited to narrative; the union also relied on previously constructed global alliances and built new ones at the local level. At the MUA's request the International Transport Workers Federation threatened an international boycott of Patrick-stevedored ships. In addition the union appealed to members of other unions, community groups and supportive citizens to participate in peaceful pickets of Patrick premises in Sydney and Melbourne. Thousands of people participated in the pickets and this community presence was featured in Australian media coverage of the dispute. Herod (2001) also provides a number of case-studies which illustrate that, as in the MUA dispute, the way in which scales of cooperation and antagonism are constructed are as important as the narrative uses to which scale is put, though the two interpretations are obviously interrelated.

Those involved in developing the sub-discipline of labour geography have also been interested in whether or not the increasingly global organisation of capital will reinvigorate labour internationalism—an issue which is also debated within the fields of labour studies and industrial relations, and within the labour movement itself. [30] In 2001 the geography journal *Antipode* devoted an issue to papers by both activists and academics on the issue of "Place, Space and the New Labour Internationalisms" (Waterman and Wills 2001). In her contribution Wills (2001, pp. 488-92) summarises the previous 50 years of attempts to build international cooperation among unions representing workers employed in different countries by the same TNCs. She describes for example how International Trade Secretariats (ITSs) set up World Community Councils (WCCs) during the 1960s and 1970s with the goal of assisting trade unionists

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[29] Herod acknowledges he is drawing on the work of Cox.
[30] See for example Breitenfeller (1997), Haworth and Hughes (2000; 2003) and Wells (1998). In 1999 the ILO and ICFTU launched a joint online discussion group on "Organised Labour in the 21st Century" (HWP 1999). Many of the contributors argued the labour movement should increase global cooperation among unions.

employed by the same TNCs to build international solidarity links and develop common strategies toward their employer. During the 1960s and 1970s many academics and activists had high hopes for these developments, believing they would re-scale trade union organisation and lead to transnational collective bargaining between global unions and TNCs.[31]

While there have been important examples of successful international trade union cooperation it is widely recognised that the achievements of union internationalism have so far fallen well short of the aspirations of most advocates of that internationalism. Munck (2002, pp. 148-9) describes genuine efforts by some unions in the auto industry to move towards global collective bargaining during the 1970s but concludes their failure indicates "transnational collective bargaining is unlikely and possibly even non-viable". Spooner (2004, p. 23) describes how financial support from unions in the global North to unions in the global South has at times created client-patron relationships where Southern unions have become dependent on their Northern union donors. Spooner suggests while sometimes these dependencies have been deliberately created, more often they have resulted from "ill-conceived, badly designed or insensitively managed acts of solidarity" (Spooner 2004, p. 23). While this may well be the case, there is no shortage of examples of self-interested interventions by unions based in developed countries in the labour movements of other countries. One of the more frequently cited examples is the well-documented cold war cooperation of the AFL-CIO with US government efforts to undermine left-wing trade unions and governments in Latin America and other parts of the world (Anner & Evans 2004; Munck 2002, pp. 141-44; *The Nation* 2003). In Wills' (2001, p. 488) assessment "almost 40 years after such initiatives began, workers in TNCs are still no nearer transnational trade union organisation, multinational collective bargaining or vibrant international solidarity". Instead, "trade unionism has tended to be pragmatic, anti-intellectual and inspired by short-term, workplace-based goals" and "trade unionists

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[31] Haworth (2001, pp. 4-5) for example describes Levinson's 1972 call for transnational collective bargaining as influential.

have tended to focus on making international contacts only when the local and national arenas have proved inadequate to their tasks" (Wills 2001, p. 489, 491).[32]

Labour activists and academics sympathetic to trade unionism respond to this uninspiring history of labour internationalism in at least four ways: by asserting the continued importance of locally-scaled organising; by calling for labour internationalism which is motivated by class-based solidarity; by pointing to the emergence of broader alliances between unions and other social movements; and by highlighting the need for global regulation of labour rights. Castree (2000) and Herod (2003) appeal for continued recognition of the value to unions of strategies which focus on local scales and of the significance of the local in union strategies involving multiple scales.[33] While recognising international union cooperation can provide valuable assistance in local union disputes, they argue the need for, and the expectations of, globally-scaled cooperation are often overstated. Herod (2001, p.67) notes particular groups of workers have an interest in maintaining production in particular locations and hence often organise around spatial concerns rather than class ones, for example by working in alliance with local or national groups of employers at the expense of workers and employers in other countries or regions. He argues geographical coalitions betweens unions and employers can bring real benefits to some groups of workers and cautions against "aspatial class analyses" which would condemn these coalitions as examples of workers demonstrating "false consciousness". Herod (2003) also points out that even when unions in globalised industries are in conflict with their employer they may still have more leverage at local than at international scales. He describes for example the 1998 dispute between the United Auto Workers and the General Motors Corporation (GM). In this case workers in just two plants in Flint Michigan were able to take advantage of the globally integrated nature of GM's production processes to gain significant leverage over the company (Herod 2003, p. 510). Similarly, Castree's (2000, p. 273) analysis of the 1995-8 Liverpool Dockers' dispute leads to him conclude "the

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[32] More than 20 years earlier, Vandervort's (1978) review of a century of international union organisation brought him to a similar conclusion.
[33] In their work on establishing alternatives to capitalism, Gibson-Graham (2002, p. 35) similarly emphasise the value of locally-focused action.

national and (especially) the local scales of the struggle were as vital to its longevity and potential (if not actual) success as was the international scale".[34]

Other researchers argue for an increased focus on class-based international union cooperation in which trade unions from different countries focus on their collective interests. Johns (1998, p. 252) contrasts "accommodationist" solidarity—which is actually designed to benefit groups of workers in one area at the expense of those in other areas—with "transformatory" solidarity which "attempts to prevent capital from using space to weaken workers' organisations". Collins (2003, p. 4), Gough (2001), Harvey (1996, p. 246), Johns (1998) and Wills (2001) blame the disappointing history of labour internationalism on the prevalence of "accommodationist" approaches and call for a renewed focus on what Johns calls "transformatory solidarity". They deny workers from different countries and regions need necessarily regard themselves as in competition for scarce jobs. As Gough (2001, p. 1) puts it, "the 'interests' of individuals and of collectives are not given objectively by social structure but are constructed through and between different feasible strategies of action".[35] Wills sees some cause for hope in the way International Trade Secretariats like the International Union of Food and Allied Workers (IUF) and International Chemical, Energy, Mine and General Workers Union (ICEM) increasingly call on their members to abandon the tokenistic internationalism prevalent in previous decades and to initiate, in the words of ICEM's global strategy, actions which are "planned on an international basis right from the start" (cited in Wills 1998, p. 117).[36] Wills' assessment of the operation of European Works Councils, however, suggests unions are failing to take advantage of opportunities to build transnational cooperation. She argues labour internationalism is undertheorised and there is a pressing need for re-thinking how it might be invigorated (Wills 2001, p. 492).

One important way in which labour internationalism is being re-imagined involves union cooperation not only with other unions internationally but also with other social movements. This cooperation has been articulated in various ways. Moody (cited in

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[34] See also Munck (2002, p. 105).
[35] See also Fröebel et. al. (1980, p. 406).
[36] See also Munck (2002, pp. 13-17).

Sadler 2004) drew on experiences of unions in South Africa, Brazil, South Korea and Taiwan to argue for a "social movement unionism" which involved unions playing a central role, in cooperation with other organisations, in movements to address issues of poverty and injustice. In contrast, Waterman (2001) argues for a "new social unionism" in which unions abandon the belief they should be the primary organisations in social and economic struggles. Instead he urges the global labour movement to regard itself as "part of a general global solidarity movement, from which it must learn and to which it must contribute" (Waterman 2001, p. 316).[37] In addition he argues "new social unionism" should involve rank and file union members participating in "informal, horizontal, flexible coalitions, alliances and interest groups" rather than remaining constricted within hierarchical union organisational structures (Waterman 2001, p. 317).[38] These new union/social movement alliances are extending their strategies to influence corporations so that, in addition to spaces of production, spaces of consumption are becoming sites of struggle (Waterman 2001; *Our Times* 1998, p.24; Wills 2001, pp. 486-7; Collins 2003, p. 190; Johns & Vural 2000).

As two of the quotes which open this chapter demonstrate, global cooperation between unions and wider social movements has gained support from high-profile members of the global trade union movement (Munck 2002, pp. 17, 154-5). Research into attempts to build this kind of cooperation both indicate its potential for increasing workers' ability to achieve their goals (Wells 1998) and demonstrate these wider alliances have their own tensions and difficulties. The MUA/Patrick dispute referred to above is a good example of union cooperation with other unions and community groups to win a particular struggle (Sadler and Fagan 2004). Sadler's (2004) analysis of the Australian Construction, Forestry, Mining and Energy Union's (CFMEU) international stakeholder campaign against Rio Tinto also demonstrates that by discursively constructing workers' campaign issues as part of wider questions of corporate responsibility and shareholder concerns, it is possible for unions to build effective alliances with environmental and human rights campaigners, shareholder associations and ethically sensitive investment funds. Sadler (2004, p. 45) questions whether other groups

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[37] See also Munck (2002, p. 172-3).
[38] See also *Our Times* (1998, p.24) and Wills (1998, p. 119).

involved in that particular alliance gained as much from it as the CFMEU, however, and notes, "past precedent suggests that unions do not always reciprocate the solidarity they themselves have sought". Johns & Vural's (2000, p. 1194) assessment of cooperation between the Union of Needletrades, Industrial, and Textile Employees (UNITE) in the US and the US National Consumer League similarly raises questions about the sustainability of alliances between unions and consumer groups. In 2004 the journal *Development in Practice* devoted an issue to "Trade union and NGO relations in development and social justice". Contributors highlight various tensions in union-NGO relations, including conflict over whether NGOs should be involved in organising workers; union concerns about the undemocratic nature of NGO structures; differences in decision-making styles; class differences between union and NGO staff; and tensions over competition for funds from donors (Eade 2004a, p.5; Eade 2004b, p. 15; Huyer 2004, pp. 49-54; Leather 2004, pp. 14-17; Prieto & Quinteros 2004, pp. 151-4; Spooner 2004, p. 19). Despite these tensions, most papers argue closer cooperation between unions and NGOs is possible and indeed necessary to increase the effectiveness of social movement campaigns, including union campaigns for workers' rights (Connor 2004; Hale 2004, p. 160; Spooner 2004).

Others theorists argue labour internationalism has so far failed because of the lack of an effective globally-scaled regulatory system pushing TNCs to respect workers' rights. Haworth (2003) accepts the "race to the bottom" argument that the mobility of capital significantly undermines attempts to protect workers' rights within national industrial relations systems. While he believes the labour movement has struggled to come up with an effective response, a number of recent developments lead him to conclude "the idea of global labour regulation has taken its first tentative steps" (2003, p. 101).[39] These developments include the trade/labour standards debate in relation to WTO negotiations and other trade agreements; the importance given to social partnership in the European Union; the mobilisation of civil society in response to concerns about globalisation and the growth of attempts by TNCs to put in place "responsible, monitored labour practices before they are 'Niked'"[40]. Munck (2002) also argues the

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[39] See also Haworth & Hughes (2000; 2003).
[40] That is, Haworth argues these companies are setting up systems for monitoring labour practices in their supply chains in order to avoid being subjected to the kind of public criticism which Nike has received.

labour movement is likely to achieve more by seeking effective global regulation of all TNCs than by trying to achieve transnational collective bargaining with individual companies. He is optimistic the growing international civil society movement— including an increasingly globally-focused trade union movement—is helping to create an environment which will lead to global social modes of regulation, including regulation of labour rights. He (2002b, p. 18) suggests while a "global government" is unlikely, "new forms of governance at a global level are emerging and are likely to be extended both horizontally and vertically". In Chapters 5 and 6 I consider in more depth the relationship between campaigns to influence the labour practices of particular TNCs, voluntary initiatives governing TNC labour practices, and new forms of global governance of labour rights.

Globalisation and the "race to the bottom" in the clothing and footwear industry

This thesis assesses attempts to promote respect for trade union rights in the sportswear sector, a subset of the global clothing and footwear industry. This is an important industry in debates regarding the future of trade unionism for three reasons. First, it provides an opportunity to test the value of "social movement" unionism. Over the last decade and a half the industry has been the focus of considerable global campaign cooperation between trade unions, women's groups, religious groups, development organisations and other non-government organisations with one of the goals being to improve respect for workers' rights to organise and bargain collectively (Herod 2001, p. 264; Munck 2002, pp. 103, 162-3). Second, the considerable development of codes of conduct and multi-stakeholder initiatives in the industry provide an important test case as to the value of establishing non-binding forms of governance of labour rights in corporate supply networks. Third, the clothing and footwear industry provides very difficult challenges to worker organisation and hence evidence of positive developments in this industry would bode well for the future of trade unionism more generally. Much of the evidence mobilised to counter the view that globalising capital is causing the decline of trade unionism is taken from industries involving the employment of highly skilled, highly paid workers or industries like shipping or mining where capital's mobility is undermined by the very high sunk costs associated with sites of economic activity. The challenges facing workers seeking to organise trade unions are

considerably greater in industries like clothing and footwear where workers are less skilled and where production sites have lower sunk costs (Munck 2002, p.148).

The *New International Division of Labour,* which was influential in the early development of the "race to the bottom" thesis, drew heavily on research into the production of clothing (Fröebel et. al. 1980). A case-study of restructuring within the German textile and garment industry took up a third of the book, while a further third dealt with the establishment of factories in export processing zones in developing countries, many of which produced apparel. Based on this research, Fröebel et. al. (p. 12) gave three reasons for their conclusion that manufacturing would increasingly relocate from developed to developing countries. First, the abundance of cheap, disposable labour in developing countries substantially reduced production costs as compared with production in developed countries. Second, the increasing fragmentation of production processes meant most work tasks required relatively low levels of skill and could be learned relatively quickly. Third, improvements in transport and communication techniques made it economically viable to produce goods at any site in the world. Fröebel et. al. (p. 341-3) provided evidence that governments of developing countries competed with each other to attract TNCs to locate manufacturing in their countries and that they did so by advertising workers' low price, productivity and loyalty. Their field research indicated workers were employed under harsh working conditions which were maintained by a combination of competition between workers for scarce jobs; suppression of trade unions by governments and employers; and, at the last resort, by the use of military force (p. 360). On the basis of these and other factors Fröebel et. al. (p. 406) described as "immense" the obstacles facing workers wanting to establish democratic trade unions through which they could struggle for better wages and conditions.

Some 30 years after the *New International Division of Labour* was originally published in German, a cursory assessment of developments in the global clothing and footwear industry bears out many of Fröebel et. al.'s predictions. The shift of apparel manufacturing from developed to developing countries has certainly continued. In 1965

global apparel exports amounted to only US$3 billion[41] in value with 14 per cent supplied by developing countries. By 1991 exported apparel had grown to US$119 billion in value, with 59 per cent from developing countries (Spener et. al. 2002, p.4). By 2005, the value was US$209.3 billion, with just three developing countries accounting for almost half the total: China with 39 per cent, Turkey with 6 per cent and India with 4 per cent (US International Trade Commission 2007, pp. 3-41-2).

It is also not hard to find data which seems to support the view that individual TNCs have moved production from country to country in pursuit of lower wage costs and greater labour control. In 1998 Nike rejected claims it had continually relocated its production in search of "low wage, non-unionised" countries and pointed to factories producing for Nike in "vibrant democracies" like South Korea and Italy (Nike 1998). The history of the company's sport shoe sourcing seems to contradict this argument. When it was founded in the 1960s Nike initially contracted all its athletic footwear production to factories in Japan. Following Japanese wage rises in 1976 the company moved orders to Korea and Taiwan (Landrum, 2000). In the 1990s as wages rose in Korea and Taiwan the bulk of Nike's sportshoe production moved to China, Indonesia, Thailand and Vietnam. In April 1997 *Associated Press* quoted Nike spokesperson Jim Small responding to increases in Indonesian legal minimum wages by saying, "there's concerns what that does to the market—whether or not Indonesia could be reaching a point where it's pricing itself out of the market" (*Associated Press* 1997a). The threat was clear: keep wages low or we will move production elsewhere. Since 1998 when it became legal in Indonesia to form trade unions Nike has reduced the proportion of its shoes made in Indonesia and increased sportshoe orders to China and Vietnam where only the communist government unions are allowed. Since 2001 fewer than 1 per cent of Nike's sneakers have been produced in Italy and South Korea (figure 2.1).

Several other developments in the global apparel industry support Fröebel et. al.'s prediction that the balance of power between manufacturing workers and TNCs would continue to shift in favour of TNCs. In the 1960s Nike pioneered a system of sub-contracting all its production to manufacturing companies, allowing Nike to focus on

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[41] In this thesis, billion is used in the US sense and means 1 000 000 000.

designing and marketing its products. Donaghu and Barff (1990) described how this system of sub-contracting increased the company's flexibility, making it possible for Nike to respond quickly to unpredictable variations in consumer demand. This approach proved financially successful and it has become standard practice within the global apparel industry for companies which own clothing brands to contract out most or all of their manufacturing (Bair & Gereffi 2002, p. 35). The sub-contracting does not end with the relationship between the brand-owning company and its manufacturing partners. Factory owners receiving branded orders in turn commonly sub-contract various parts of production to other companies or to home workers, creating complex networks of production in which manufacturing workers rarely have any direct legal relationship with the companies who own the brands which they produce.

Figure 2.1
Country of Manufacture of Nike Sportshoes, 1992-2006
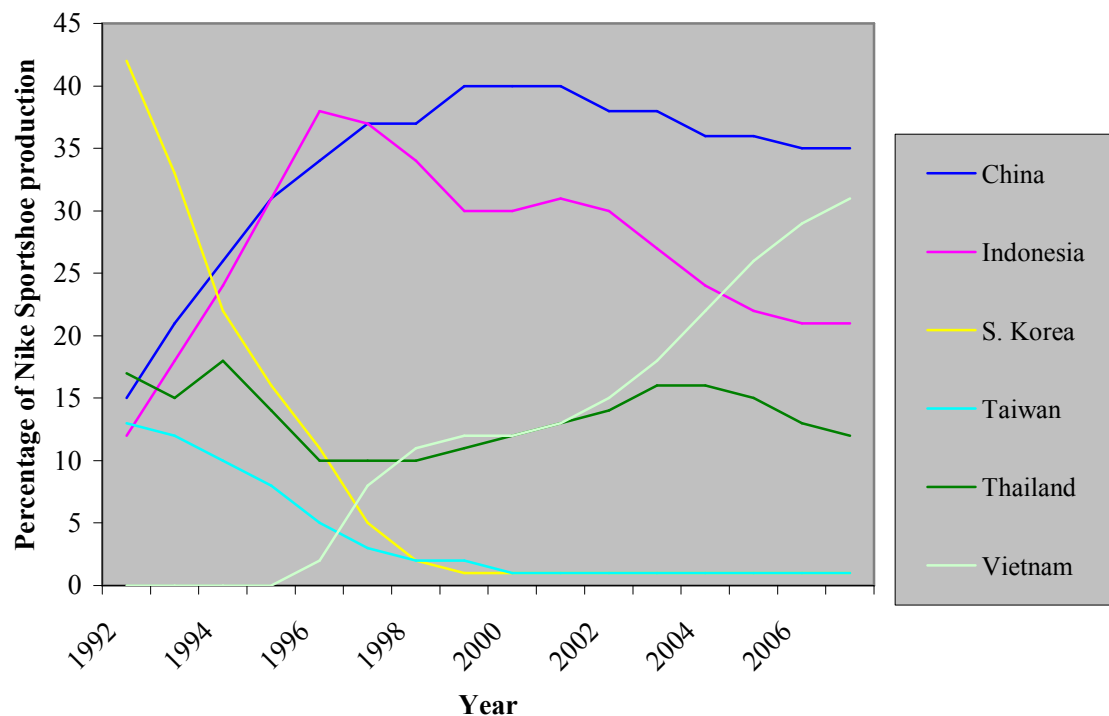
Source: Landrum (2000) and Nike's annual reports to the Securities and Exchange Commission for 2001-07 [42]

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[42] The years on the x axis refer to fiscal years ending 31 May, so 2001 means the fiscal year which ended 31 May 2001. I couldn't obtain the necessary data for 2000 and so the relevant section of figure 2.1 represents an average of production figures for 1999 and 2001. In order to make figure 2.1 easier to read I have not included countries like Italy which did not produce more than 5 per cent of Nike's sportshoes in any of the years between 1992 and 2003. In an e-mail dated 26 September 2007 (copy held on file), Nike

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While up until the 1970s the apparel industry was marked by low levels of market concentration and relatively low barriers to market entry, this is no longer the case (Collins 2003, p.36; Bair and Gereffi 2002, p. 35). From the 1970s brand-promotion grew in significance as part of corporate strategies to add value to footwear and garments. The substantial expenditure required to construct, promote and secure consumer loyalty to a brand is now one of a number of significant barriers to market entry (Collins 2003, p. 36). In the sportswear sector the largest company, Nike, invested heavily in marketing over the course of the 1980s and 1990s and this increased both the company's market share and the concentration of market power in the sector (figure 2.2). By 2002, the three largest sportswear companies were responsible for more than half of the annual global sales of athletic footwear (table 2.1), and by 2004 the top five brands accounted for 71.6 per cent of global sales (Yue Yuen 2006). This market concentration was subsequently further enhanced through corporate take-overs with Nike buying competitors Converse and Umbro; and Adidas acquiring a range of brands including Reebok, Maxfli and TaylorMade. In 2006 Nike had 37 per cent of the global athletic footwear market and Adidas/Reebok had 22 per cent (*Barron's Online* 2006). Market concentration is also increasing in apparel retailing. According to *Apparel Industry Magazine* (cited in Collins 2003, p. 38) by 1998 the 20 largest retailing firms controlled 47 per cent of the total US apparel market and by 1999 the six largest department stores in the US were responsible for 90 per cent of US department store apparel sales. Collins (2006, p.16) attributes the price deflation in the US apparel industry since 1991 to this increased concentration of apparel retailers, who are using their increased market power to demand cheaper prices from their suppliers.

A third layer of market concentration is developing with the growth of sourcing agents which offer brand-owning apparel companies and retailers a "full package" service, including managing relationships with factory suppliers, quality control, transport management, export documentation, product development and production planning

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representative Caitlin Morris argued that although Nike sportshoe production in Indonesia has fallen as a proportion of total Nike sportshoe production, the volumes of footwear production in Indonesia have remained "steady" and apparel production in Indonesia has grown. Morris was not able to share the volume data, but did report that footwear production in Indonesia increased by 16 per cent between 2004 and 2006.

(Abernathy et. al. 2006, p. 2212). This allows retailers and brand-owning companies to deal with one sourcing agent instead of large numbers of factory suppliers. It also concentrates market power in the hands of sourcing agents who manage the supply networks of multiple TNCs. By 2001 the world's largest sourcing agent, the Hong Kong based company Li and Fung, had an estimated 7 500 suppliers in about 40 countries around the world (Abernathy et. al. 2006, p. 2212). This combination of market concentration in marketing, retail and sourcing and the sub-contracting of manufacturing substantially increases the power of retailers, brand-owners and sourcing agents over manufacturing suppliers:

> The large merchandising chains can afford to squeeze hard…[turning] up the pressure on their contractors to make clothes with more fashion seasons, faster turnaround times, lower profit margins and frequently worse conditions for workers". (Appelbaum & Gereffi, cited in Collins 2003, p. 41)

Footwear factories require larger capital investment than apparel factories, and hence footwear suppliers tend to be larger in scale and have greater bargaining power in relation to their buyers. The world's largest sportshoe manufacturer, the Hong Kong-based and Taiwanese-owned Yue Yuen, owns factories in China, Vietnam and Indonesia. In the 2005 fiscal year it produced 186 million pairs of shoes, amounting to 17 per cent of the world's athletic and casual branded footwear (Yue Yuen 2006). *Newsweek* (2007) recently reported that Yue Yuen makes 30 per cent of Adidas shoes, 25 per cent of Nikes and 20 per cent of Reeboks. Even with this level of market share, however, in 2003 the Standard and Poor's rating service reported Yue Yuen's advantages in terms of economies of scale were partially undermined "by increasing pressure on pricing from Yue Yuen's customers and high customer concentration" (*Reuters* 2003). In 2007 the *South China Morning Post* (2007) named Yue Yuen as one of several shoemakers who were finding it necessary to establish retail operations in China because they were "reeling" from difficulties in their manufacturing operations, including rising labour costs in China and "fierce" competition for orders.[43]

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[43] As of July 2007, there were 1 000 Yue Yuen retail outlets in China, some self-run and some franchised. Yue Yuen planned to increase that to 3 000 within two years. Yue Yuen's retail outlets sell the company's own YY brand, and are also licensed to sell Reebok shoes.
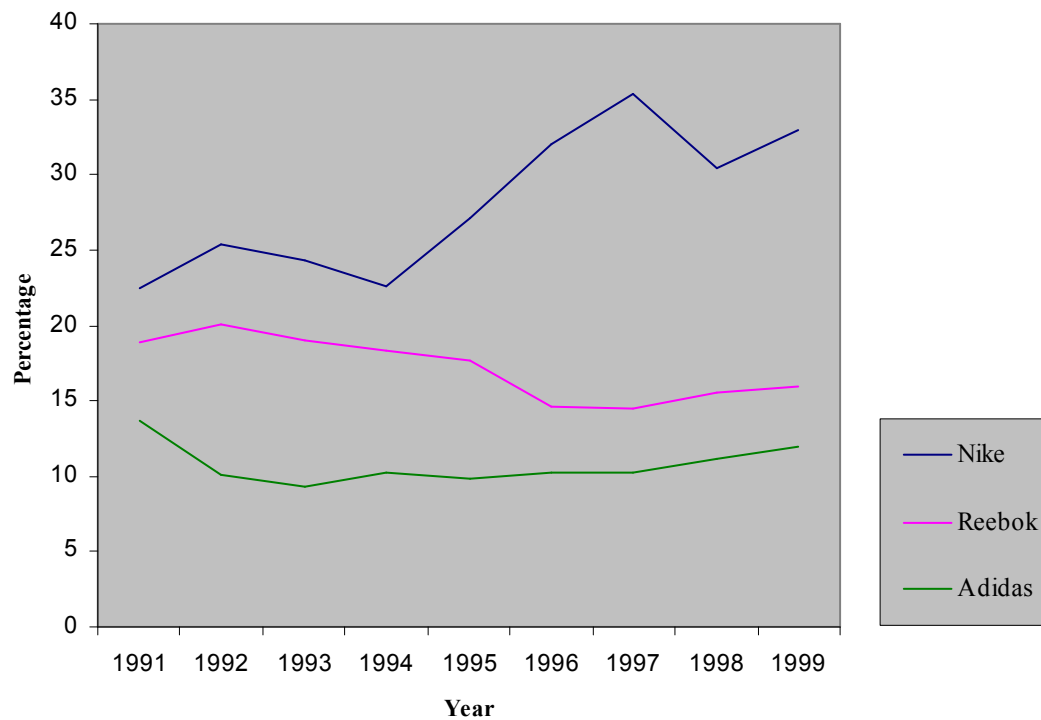
Table 2.1

Global Market Share of Nike, Reebok, Adidas and the Top 20 Sports Brands, 2002

	Athletic Apparel (percentages)	Athletic Footwear (percentages)
Nike	7.3	32.1
Adidas	5.0	16.5
Reebok	2.5	9.1
Top 20	34.8	92.2

Source: CCC et. al. (2005, p.9)

Figure 2.2

Global Sportshoe Market Share of Nike, Reebok and Adidas 1991-99

Source: Landrum (2000).

TNC constraints and strategies in the clothing and footwear industry

In 1997—in the context of giving the Progress in Human Geography lecture at the annual meeting of the Association of American Geographers—Schoenberger (1998)

used the example of wages paid to workers producing Nike's goods to problematise the concept of "competitiveness". At the time there was much media discussion regarding proposals that TNCs should ensure workers in their supply networks were paid a "living wage", in excess of legal minimum wages and industry norms. Critics of "living wage" proposals were arguing they would make companies like Nike uncompetitive and hence drive them out of business. According to Schoenberger's (1998, p.10) calculations, if Nike ensured all workers making its products in developing countries were paid the equivalent of the US minimum wage Nike would still be competitive, even though this would involve paying workers 10 times what they were currently being paid. Unfortunately Schoenberger (1998, p.8) had guessed the number of workers employed making Nike's goods and, in fact, underestimated the number by a factor of 10.[44] Despite this, her wider point—that minimising labour costs is only one aspect of apparel and footwear companies' profit-making strategies, and may not be the overriding factor—is supported by the more detailed research considered in this section.

Examining the distribution of apparel production for export and comparing it with hourly apparel labour costs makes it clear wage costs are not the sole determinant of where apparel is produced (table 2.2). In 1998 Mexico's apparel wage costs were five times that of Bangladesh but this didn't stop Mexico's garment exports being double the value of garment exports from Bangladesh. Similarly China's position as the clear leader in garment exports cannot be attributed solely to labour costs since China's wage costs are significantly higher than those of Indonesia and Bangladesh.

Mexico's success can partly be attributed to trade protectionism, a factor which has had significant influence on global sourcing of apparel. In accordance with the Multi-Fibre Arrangement (MFA), from 1974 until the end of 2004 the US and Europe allocated quotas to individual countries based on bi-lateral negotiations. When a country had filled its annual quota for a particular product companies wanting to import that product would need to find another country which still had unfilled quota. The quota system led

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[44] Schoenberger (1998, p. 8) guessed there were 50 000 workers employed manufacturing Nike goods. At the time Nike was reporting 500 000 workers were employed in its suppliers' factories. For example in a media statement in 1997 the company stated, **"**We are determined that the 500 000 jobs created by Nike's contract relationships around the world continue to be the best jobs in the business" (Nike 1997).

to some extraordinary outcomes. Collins (2003, p. 50) cites an example of cashmere from China being transported to Madagascar to be knit into sweaters, purely because Madagascar had quota for that product and China's quota was filled. The end of the quota system has seen the decline of apparel industries which were quota-dependent but has not marked the end of protectionism's influence on sourcing decisions. Tariffs continue to play a significant role. Under the North American Free Trade Agreement (NAFTA) and other agreements involving countries in Africa and the Caribbean basin, the US has, for example, granted tariff-free access for the importation of clothes made using fabrics manufactured and cut in the US (Collins 2003, p. 51). This tariff-free access is part of the reason Mexican apparel exports grew so strongly in the 1990s (table 2.2).

Table 2.2
World's Leading Apparel Exporters, 1980-1999

Country	Apparel exports to the World Market (US$ billions)[45]			Hourly apparel labour costs[46] (US$)	Apparel as a percentage of total national exports
	1980	1990	1999	1998	1999
China	1.7	10.2	32.4	0.43	15.4
Hong Kong	5.3	15.7	22.8	5.20	12.9
United States	1.3	2.7	8.7	10.12	1.2
Mexico	0.1	0.1	8.0	1.51	5.6
Turkey	0.1	3.4	6.9	1.84	24.8
Indonesia	0.6	2.9	5.9	0.16	11.1
India	0.6	2.6	5.4	0.39	13.8
South Korea	3.1	8.3	5.1	2.69	3.4
Bangladesh	0.0	0.6	4.0	0.30	80.0
Thailand	0.3	2.9	3.7	0.78	6.1
Taiwan	2.6	4.2	3.4	4.68	2.4
Morocco	0.1	0.7	2.6	1.36	33.8
World	39.6	110.6	201.3		

Source: Bair & Gereffi (2002, pp. 25-6).

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[45] In this thesis, billion is used in the US sense and means 1 000 000 000.
[46] Including wages and fringe benefits.

Another part of the reason for Mexico's success lies in its proximity to the US market. A typical Mexican jeans manufacturer can get finished jeans to distribution centres in the US within three weeks of receiving an order, compared with 11 weeks for suppliers from coastal China (Abernathy et. al. 2006, p. 2216). Improvements in information technology—including electronic cash registers which read bar codes at the point of sale—have allowed some garment retailers to minimise handling and storage costs by doing without distribution centres and warehouses. Many retailers now expect their suppliers to send products direct to retail outlets ready for sale, complete with price tags attached (Collins 2003, p. 40). The integration of information technology systems between retailers and their suppliers allows customer purchases to "pull merchandise through the supply channel" (Collins 2003, p. 40). This approach to garment retailing makes the speed and reliability of delivery to retail outlets an important factor in determining where products are made.

The extent to which Mexico's proximity to the US gives it an advantage over lower wage countries like China in exporting garments to the US is contingent on the way particular garments are marketed and consumed. One categorisation of apparel products used by industry analysts distinguishes between "fashion", "fashion-basics" and "basic products" (HCTAR 1995). "Fashion" items represent the designer segment of the market. These products are relatively expensive to make, have short seasons and, once sold, are not usually replenished by retailers. "Fashion-basics" are essentially copies of styles introduced by elite designers and have a longer selling life. "Basic products" are things like t-shirts and jeans which do not change styles very often. The rise of the lean-retailing model means many retailers replenish basic products at least once a week (Abernathy et. al. 2006, p. 2216). Abernathy et. al. (2006) demonstrate that despite higher wage costs the combination of tariff advantages and Mexican suppliers' ability to get products to US retail outlets quickly will ensure Mexico and, to a lesser extent, countries in the Caribbean will continue to dominate exports to the US of basic products such as jeans and t-shirts. Similarly they predict low-wage countries on the continent and bordering the Mediterranean Sea will produce most of Europe's of basic apparel products (Abernathy et. al. 2006, p. 2225). In contrast, they predict lower wage

countries in Asia such as China and India will continue to account for most global exports of fashion items such as women's dresses.

China's position as the world's leading apparel exporter by a significant and growing margin further illustrates that although wage costs are part of the equation there are other factors which guide apparel sourcing decisions. In 2002, hourly labour costs in coastal areas of China were more than three times higher than in Indonesia and more than twice as high than in Madagascar, Kenya, India, Bangladesh and Pakistan (table 2.3).[47] Despite this, China's apparel exports have continued to grow. The phase out of the quota system at the end of 2004 led to such a surge in apparel exports from China that in 2005 both the US and EU temporarily re-introduced quotas on Chinese textile and apparel exports in order to give their domestic apparel and textile industries more time to adjust to the new trading environment (Abernathy et. al. 2006, p. 2210). Even with the re-introduction of quotas, the value of China's exports to the US of textiles, textile products and apparel grew from US$18 billion in 2004 to US$26 billion in 2005 and again to US$30 billion in 2006 (US Census Bureau 2007).[48] The re-introduction of quotas in 2006 slowed the growth of China's apparel exports to the EU but the rate at which those quotas are being filled in 2007 suggests there is room for further growth when the quotas are removed (EmergingTextiles.com 2007).

Table 2.3
Countries with average hourly labour costs in apparel manufacturing which were lower than China's in 2002 (US$, including all benefits and/or social charges)

Country	Labour Cost	Country	Labour Cost	Country	Labour Cost
Indonesia	0.27	Pakistan	0.41	Egypt	0.77
Madagascar	0.33	Sri Lanka	0.48	Jordan	0.81
Kenya	0.38	Haiti	0.49	China-Coastal	0.88
India	0.38	China-inland	0.68		
Bangladesh	0.39	Philippines	0.76		

Source: Abernathy et. al. (2006, p.2213).

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[47] More recently *The Economist* (2007) reported an assessment by a Hong Kong Investment Bank that, "Average wages for a factory worker, combined with social security costs, came to almost $350 a month in Shanghai in 2005 and almost $250 a month in Shenzhen. By comparison, monthly wages were less than $200 in Manila, around $150 in Bangkok and just over $100 in Batam in Indonesia". These figures are in US dollars.
[48] In this thesis, billion is used in the US sense and means 1 000 000 000.

Industry analysts point to a number of reasons for China's success. China has its own growing textile industry and the Chinese government has invested heavily in providing that industry with high quality technology (Rosen 2002, p. 207). This means apparel manufacturers in China are able to quickly access low-cost fabrics, a cost advantage which for some products is more important than wage costs (Abernathy et. al. 2006, p 2213). China has built good highways and efficient port infrastructure which allows goods to be exported quickly (Weller 2003, p. 286). China's ports are also major hubs on global shipping routes; if a container misses one ship there will soon be another travelling the same route. China is perceived as relatively political stable, which reduces TNC concerns the flow of goods may be interrupted by political developments. China itself represents a large and rapidly growing market for branded clothing and footwear (*South China Morning Post* 2007). If brand-owning companies and retailers have manufacturing suppliers based in China then they can access the Chinese market without having to pay the tariffs the Chinese government places on imported clothes and shoes. This makes suppliers based in China more attractive to brand owning companies than suppliers in countries with very limited consumer markets and/or very low tariffs on imported clothing and footwear. China's currency is fixed by the Chinese government, and it is widely alleged that the value of the currency is kept lower than it would be under a floating exchange rate system and that hence currency control is one means by which the Chinese Government enhances the competitiveness of its exports (*Deloitte* 2005). Hong Kong, which plays an important role in managing garment production in China's Pearl River Delta, has a well-educated workforce, many of whom speak English (Weller 2003, p. 277, 279). Hong Kong also has a sophisticated fashion design industry and sourcing agents based in China are able to employ staff with good fashion knowledge (Weller 2003, p. 289). The convergence of so much fashion garment production in Hong Kong and China has also contributed to the knowledge of fashion trends among Hong Kong's garment sourcing agents. These agents not only advise their customers on practical issues regarding how to turn fashion ideas into finished garments, they are also able to give them a sense of fashion trends by sharing information about what other apparel companies producing in China are doing (Weller 2003, p. 288).

To be fair to Fröebel et. al. (1980), they were well aware that labour cost was only one of many issues determining where production is sourced. They (1980, p. 147) were critical of analysis which concentrated solely on costs associated with land, labour and capital and the *New International Division of Labour* (1980, pp. 145-7) includes a three-page list of 65 factors other than wages which influence sourcing decisions. Nonetheless, Fröebel et. al. (1980, p. 144) concluded that "in the clothing industry the dominant factor was clearly the question of wages". More recent academic and industry analysis of sourcing decisions in apparel and footwear production indicates that while minimising labour costs remains an important factor in determining where and how a product is made, labour costs are not necessarily dominant (Abernathy et. al. 2006, p.2213; Collins 2003, p.7; Birnbaum, 2000). The importance of labour costs is contingent on a variety of factors including how the necessary fashion knowledge can most effectively and efficiently be incorporated into the design and pattern-making of a particular garment; the speed with which the product needs to be replenished in retail outlets; the relative cost of fabric; the sophistication of technology used for textile, and some apparel, production; and the costs associated with trade agreements and other government policies.

Globalising apparel production and the power of the state

As the above discussion makes clear, states still have significant influence in the global apparel and footwear industry. States set tariffs, quotas, subsidies and currency rates which strongly influence patterns of production. States play a role in ensuring the supply of electricity and water to factories and in constructing highways, ports and other infrastructure which enable speedy transport of goods. States provide the legislative framework within with production occurs, including establishing and enforcing (or failing to enforce) laws regarding contracts, industrial relations, taxation, migration and corruption. States sometimes provide direct financial assistance to industries which produce apparel inputs—as for example the Chinese government has in relation to the textile industry.

While many of these functions can be interpreted as examples of the state conforming to or cooperating with capital to support capital's profit-making strategies, this is not the sole motivation guiding state policies. Rosen (2002) considers US government policies regarding apparel and textile trade since the end of the Second World War. She (pp. 27-30) records how the US helped to rebuild the Japanese textile industry in the 1950s and provided privileged access to the US for Japanese exports of textiles and clothing. She argues this was not only designed to create a market for the excess US cotton harvest generated by subsidies, it was also part of the US government's attempts to prevent the spread of communism.[49] There are also more recent examples of trade arrangements in the apparel industry being used to further political objectives. Part of Bangladesh's comparative advantage in garment exports lies in the special access it gains to the EU consumer market as a less-developed country. In 2001 Pakistan requested the US suspend tariffs on Pakistani textiles and increase Pakistan's quota allocation on a number of apparel items in exchange for Pakistan's support in the "war on terror". Wary of losing votes in states with high numbers of textile workers but keen to persuade Pakistan to cooperate in the invasion of Afghanistan, the US gave Pakistan some of what it wanted and increased Pakistan's quota allocation for some apparel products by between 15 and 25 per cent (*Townhall.com* 2002; *reasononline* 2006).

Nor can the influence of organised labour be written out of the development of US apparel trade policy. Rosen (2002, p. 109-10) describes how the US government's establishment of quota systems and tariff protections in the 1960s and 1970s was partly the result of effective lobbying by a coalition involving US apparel and textile unions as well as US tariff producers and some apparel companies. Although the recent significant reductions in US protectionism can be represented as a win for the retail-led section of the US fashion industry against an alliance involving US apparel and textile unions and the textile-led section of the apparel industry, they do not necessarily indicate the end of the US labour movement's influence over apparel trade policy (Rosen 2002). From 1999 until the expiry of the MFA at the end of 2004 there was a special trade agreement between the US and Cambodia designed to enhance respect for

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[49] During the same period the US put in place similar programs to support apparel production in Taiwan and South Korea (Rosen 2002, p.44-5)

labour rights in Cambodia. Under this scheme the level of US quota allocation to Cambodia depended on ILO investigations into labour conditions in Cambodian garment factories. The initial impetus for this arrangement was a proposal from the AFL-CIO (cited in RR 2007, p. 9) and some assessments of this pilot scheme suggest it is worth applying more widely (Wells 2006). Both the US and the EU also continue to administer Generalised System of Preferences (GSP) schemes which give developing countries tariff advantages if they meet a number of conditions, including respect for labour rights.

In countries of the South which export garment and footwear, labour markets are not separate from the political, cultural and historical factors which help to construct them. As Rosen (2002 p. 19) writes, "Economic systems embody moral and cultural norms that shape the management of human resources and the patterns of labour relations".[50] Politicians cannot ignore these norms, and hence the way in which their labour policies develop reflect local histories, cultures and political tensions. In Chapter 6 I consider the influence of the Indonesian labour movement on the recent development of Indonesian labour law. Even in non-democratic countries like Vietnam, however, the extent to which governments can afford to ignore workers' aspirations depends on local factors. Chan and Wang (2004), for example, contrast the experience of Taiwanese manufacturing companies in China with those in Vietnam. The managers of these firms reported the Vietnamese government gives its state union more leeway to protect workers' rights than the Chinese government (p. 646). As a result of official union training Vietnamese workers are more aware of their labour rights than Chinese workers and more assertive in claiming them. For example one Taiwanese manager of a factory in Vietnam reported:

> Their human rights awareness is very high. In Taiwan, when we served as army conscripts we had to obey blindly as if this were natural. But not here at all. That is why I think Taiwanese who are into shoemaking here have to face a lot of labour disturbances and strikes. They easily stage mass protests. In our company this happened last year on the night of the Moon Festival. Their labour and democratic consciousness is very high.

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[50] See also Coe et. al. (2007, pp. 266-9).

.... This is not just a problem only at my factory, this is a problem of the entire society. In Vietnam their protection of labour rights is too stringent. This is something totally unexpected. (quoted in Chan and Wang 2004, p. 633)

Another supervisor from the People's Republic of China who had worked in Taiwanese-owned factories in both China and Vietnam reported:

Chinese workers' conditions are more miserable than [those of] the Vietnamese, whose human rights are better protected. In China we had to work much longer, sometimes until one or two a.m. Next morning, we still had to get up early at 6:00 a.m. to continue the work. In Vietnam, you cannot force workers to work after 10:00 p.m. Why is there such a difference? The government. The Chinese government wants to make money and therefore just neglects workers' rights. (quoted in Chan and Wang 2004, p. 635)

Chan and Wang (2004) explain the Vietnamese government's interest in workers' rights in terms of the country's political structure and history. Since it came to power, Vietnam's communist government has attempted to establish its legitimacy with the Vietnamese people as a protector of workers from the ravages of capital - presenting Vietnam as a workers' haven (*Associated Press* 1997b). The official Vietnamese union, the VGCL, has therefore been given a lot more independence from business and local government representatives, and a lot more influence over central government policy, than its Chinese counterpart, the ACFTU (Chan and Wang 2004). Training programs by the VGCL have resulted in higher awareness of labour laws among Vietnamese workers, as compared with their Chinese counterparts. Also in contrast with China, the local internal migration system is not enforced in such a way that it increases internal migrant workers' dependence on their employers[51] (Chan and Wang 2004).

This is not to deny that TNCs use their mobility to try and influence local political considerations, nor that they often have at least a measure of success. In the latter half of the 1990s, when Vietnam was in the process of opening up to foreign investment, the official Vietnamese press published strong criticisms of the working conditions

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[51] In China the internal pass system is strongly enforced, with the result that workers who have moved from rural areas to industrial zones can be forced to return to their home village if they lose the job which gives them the right to be out of their home state (Chan and Wang 2005).

prevalent in factories producing for Nike.[52] At the time Nike was, indirectly, Vietnam's largest private employer,[53] but at least initially the Vietnamese government did not prevent labour officials and others from assisting foreign activists to investigate and publicly report on labour conditions in factories producing for the company. In response, Nike employed a staff-person whose job was to improve the company's relationship with the Vietnamese government. In January 1999, the official labour newspaper Lao Dong approvingly printed a letter from Nike vice-president Joseph Ha to Vietnamese officials which alleged US groups involved in the campaign against Nike had a secret agenda to overthrow the Vietnamese government and replace it with a US-style democracy (*Financial Times* 1999). US groups involved in the campaign targeting Nike reported that after the letter was published their contacts in Vietnam informed them it was now too dangerous for them to monitor labour conditions in Nike factories. In the words of Thuyen Nguyen of the US group Vietnam Labor Watch, "Nike has basically equated independent monitoring with political subversion" (*The Nation* 1999). Since then international labour activists have found it very difficult to get information about working conditions in Vietnamese sportswear factories. As Chan and Wang's (2005) research indicates, however, this does not mean that Vietnamese labour officials, or Vietnamese workers, have ceased to assert the importance of workers' rights.[54]

Labour geography in the global apparel and footwear industry?

Even in industries like apparel and footwear, therefore, the "race to the bottom" account is too simple. It fails to capture the complexity of the constraints facing TNCs and the complexity of their strategies for overcoming these constraints. It oversimplifies the power relationships between states and TNCs, and the extent to which workers continue to have influence over state policies and practices. Despite this, there is little evidence the complex reality of TNC strategies in apparel and footwear sourcing has so far created more space for apparel and footwear workers to organise democratic trade unions as a vehicle to negotiate better wages and conditions. Instead, Fröebel et. al.'s

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[52] My source here is a report by Thuyen Nguyen of VLW (1997, pp. 26-9).
[53] Nike's sportshoe contractors employed more than 30 000 Vietnamese (*Financial Times* 1999) and Nike footwear and apparel accounted for 7 per cent of the country's exports (*Los Angeles Times* 1999).
[54] See also recent media reports of mass strikes in Vietnamese factories producing for the global market, including strikes in factories producing for sportswear brands (*IPS* 2006; *Just-Style* 2007a; *The Daily Star* 2007; *Taipei Times* 2006; *Thanh Nien News* 2007; *Voice of America* 2007)

(1980) description of labour conditions in the garment factories producing in Asia for the world market in the mid-1970s is very similar to more recent accounts of labour conditions in global clothing production.

An example is Collins' (2003) book *Threads. Gender, Labour and Power in the Global Apparel Industry*. Collins (2003, p. 13, 24) emphasises that "in every place where global production touches down, it is instantiated differently" since firms "must engage local institutions in order to recruit, control and reproduce its workforce". Nonetheless, as one of Collins' (2003) reviewers notes:

> Much of the terrain covered in *Threads* is a familiar story about subcontracting, outsourcing, declining wages and deteriorating working conditions, the role played by women workers, and the rapid changes brought about by the current era of corporate globalisation. (McGrath 2006, p. 872)

Collins' (2003, pp. 4, 14) research indicates most Mexican workers producing apparel for export are unskilled or semi-skilled young women who have grown up in rural areas. They are employed because they can be paid low wages which reflect local prejudices regarding the value of women as workers; and because they are part of a very large pool of unemployed and underemployed workers competing for jobs (pp. 4, 14). Their wages are so low that they live in poverty, their standard wages barely sufficient for their own immediate needs, reliant on overtime pay to support dependents or have any savings (p. 145). They are expected to work at high intensity in order to reach targets and quality standards and are criticised and sometimes verbally abused if they fail to do so (pp. 3, 139-41). The intensity and duration of their work leads to high levels of exhaustion and employee turnover, commonly involving the total replacement of the workforce within one to two years. The expectation of this level of turnover is built in to work systems (pp. 3, 139-41, 156-63). They are commonly threatened with dismissal or with plant closure if they form or join unions (p. 10). Each of these findings was also made by Fröebel et. al. (1980, pp. 123, 138-9, 347-60, 400) when they researched apparel production in Asia in the 1970s. Collins (2003) work adds to a considerable body of

research by academic and NGO researchers[55] which indicates the "race to the bottom" perspective continues to have some validity, at least as a short-hand summary of the impact so far of mobile capital on trade unionism in the apparel industry.

Despite the need to negotiate local political and cultural situations, apparel and footwear factory managers in different parts of the world are employing broadly similar strategies for controlling labour, and these strategies are largely proving effective in preventing the emergence of democratic factory-based trade unions. As Collins (2003, p. 177) notes:

> …firms have constructed a social infrastructure where the connections between the worker and the workplace, and therefore among workers themselves, are tenuous and short-lived. The dense webs of social connection and shared experience out of which labor activism grows do not have much chance to emerge in these contexts.

The labour movement in the global garment and footwear sector continues to face tremendous difficulties. While in many countries it is difficult to get reliable figures it is estimated that less than 5 per cent of the global garment industry workforce is unionised (*Chronicle of Higher Education* 2000). In industrialised countries garment and footwear unions have experienced significant falls in membership both as a result of production moving off-shore and because workers employed in the remainder of the industry tend to be recently-arrived migrant women, many of whom work from home. These workers commonly face a range of additional barriers to organising, including lack of local language skills, isolation from fellow workers and lack of legal residency status (Ross 2002; Sutherland, 2003). The challenges facing democratic unions in the garment sector in the global South are, if anything, even more severe. In Central America in all countries except Honduras less than 0.5 per cent of workers producing garments for export are unionised (Cordero 1999, cited in Prieto & Quinteros 2004, p.151). Factors restricting trade union organisation include the widespread use of flexible and mobile sub-contracting production networks which make it easier to move production away from unionised workforces; the lack of adequate government legislation and

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[55] See for example AMRC (1998), Hancock (1998), OI et. al. (2004), OI (2004), IRRC (1998, p. 59).

enforcement protecting workers' rights to freedom of association and collective bargaining; and tactics used by employers to intimidate union organisers, including blacklisting and threats of violence (Bonacich 2002; Gallin 2001; Hale & Shaw 2001; Pearson 2004; Sinha 2004 p.127; Prieto & Quinteros, 2004 p. 151; Jose, 2002). Even a writer like Moran (2002, pp. 28-43, 58-61) who is up-beat about the potential of globalisation to reduce poverty does not deny factory managers in free trade zones in Asia and Central America go to considerable lengths to avoid, minimise and suppress trade unions.[56]

Unfortunately many of the factors other than labour costs affecting TNC sourcing strategies in the apparel industry do not increase the "stickiness" of production to particular geographic locations. Without this "stickiness", firms' ability to pick and choose among contracting factories continues to present a very powerful barrier to the establishment of trade unions (Collins 2003, p. 166). As the ever-increasing importance of China and to a lesser extent Vietnam[57] among garment-exporting nations illustrates, many of the non-wage considerations are drawing production to countries where there are significant legal barriers to workers' self-organisation. Just as importantly, the non-wage factors influencing sourcing decisions mostly manifest themselves at the level of the country or the region within the country, not at the level of manufacturing workers in a particular location. For those retailers and brand-owning apparel companies who rely on sourcing agents like Li & Fung to manage their supply chain for example, most of the non-labour value—such as fashion knowledge and logistics management—is added by the sourcing agent, not by the factory supplier. If workers employed by one of Li and Fung's suppliers hold industrial action which slows down production, Li and Fung can easily move that production to another factory in the same country or zone. As

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[56] Moran's (2002, p.44) proposals for taking the globalisation of production "beyond sweatshops" focus on building workers' skills and increasing their choice of employers rather than increasing the extent to which those employers respect trade union rights. Although he skirts the issue of his own attitude to such rights, he draws attention to debates regarding whether or not freedom of association deserves its status as a human right and whether appropriate worker representation can be achieved without trade unions (Moran 2002, pp.33, 50).
[57] Between 2004 and 2006 the value of Vietnamese exports to the US of Textiles, Textile Products and Apparel grew from US$2.6 billion to US$3.3 billion, making Vietnam the sixth largest exporter of these products to the US. In 2006 China and Vietnam together accounted for more than a third of exports to the US of these products (US Census Bureau, 2007). In this thesis, billion is used in the US sense and means 1 000 000 000.

a rule the workers who actually make the apparel are not gaining high-level skills. Collins (2003) research suggests innovations in work-systems designed to improve the quality and speed of production often rely on increasing scrutiny and pressure on workers rather than increasing their skill-levels and autonomy. The situation for footwear factories is somewhat different. Factories producing athletic footwear require considerable investment in capital and equipment and hence are less mobile. Unfortunately, as figure 2.1 demonstrates, athletic footwear production is increasingly moving to Vietnam and China.

Interestingly, neither Fröebel et. al. (1980) nor Collins (2003) are necessarily pessimistic about the future of worker organising in the apparel and footwear industry. Fröebel et. al. (1980, p. 406), influenced perhaps by discussion of labour internationalism during the 1970s, conclude the new international division of labour contains the "possibility of international solidarity between workers". Collins (2003, p. 14) refers to accounts by feminist ethnographers of how young rural women in developing countries can gain more self-sufficiency and autonomy through working in export processing zones and how as the women gain labour market experience they become "more savvy about the ways they could exercise their collective power". She (p. 177) describes how in northern Mexico the transience of workers' relationships to any one employer has led the site of organising to move from the workplace to the community. Organisations such as the Center for the Orientation of Women Workers, the Border Committee for Women Workers and Casa de la Mujer-Factor X mobilise women to press for changes in the home and in their local communities as well as in maquiladora factories (Collins' 2003, p. 179). Collins (p. 181) also describes how the anti-sweatshop movement has had some success in pressuring TNCs to allow workers to form trade unions in particular factories, for example in the Mexmode factory in Mexico which produces for Nike and in two of Liz Claiborne's suppliers in Guatemala. She (p. 190) concludes, "If there is hope that workers can devise ways of confronting highly mobile, geographically distant, and legally removed firms, it is through some combination of these new forms of global and local organising". The rest of this thesis considers the validity of this hope, particularly in relation to the anti-sweatshop

movement and the new forms of governance which have arisen in response to anti-sweatshop activism.

Chapter 3
Research methodology

> Dialectical enquiry necessarily incorporates, therefore, the building of ethical, moral, and political choices (*values*) into its own process and sees the constructed knowledges that result as discourses situated in a play of power directed to some goal or another.
>
> Harvey (1996, p. 56)

> I would like to suggest how our insisting metaphorically on the particularity and embodiment of all vision (although not necessarily organic embodiment and including technological mediation)…allows us to construct a usable, but not an innocent, doctrine of objectivity.…The alternative to relativism is partial, locatable, critical knowledges sustaining the possibility of webs of connections called solidarity in politics and shared conversations in epistemology.
>
> Haraway (1988, pp. 582-4)

The extract from Harvey (1996) was also quoted in Chapter 1, and it summarises some of the methodological implications of the philosophical positions I advanced in that chapter. Although it is not Harvey's intention, a superficial reading could interpret his statement as relativist, as suggesting the process of knowledge creation is so enmeshed with researchers' ethics and politics that there can be no objective means of differentially valuing ideas. But does this contention, that researchers' conceptual frameworks help shape research processes and outcomes, necessarily lead to relativism? Haraway (1988) grapples with this question in the paper from which the second quotation is extracted. She (p. 584) rejects the "god-trick" of much traditional academic writing, a trick which positions the researcher as outside of and above the processes being described. She holds that research is an embodied process: what a social scientist wants to find out about the world; why they want to know it; which research techniques they employ; how the research process unfolds; and how they interpret what they observe; are all influenced by that researchers' values, ways of thinking and personal history. Rejecting relativism, she (p. 577) aligns herself with those who "would still like to talk about *reality* with more confidence than we allow to the Christian Right when they discuss the Second Coming…" She notes that although we all necessarily observe and interact with the world from particular subject positions—and our processes of

observation and interpretation are mediated by our biology, our technologies, and our ideas—the reality we observe does not automatically conform to our expectations. She (p. 596) suggests rather that the world can be thought of as a "coding trickster with whom we must learn to converse". She (p. 582-4) concludes that a "usable...doctrine of objectivity" can therefore be based on the expectation that knowledge will be "partial, locatable, critical", but nonetheless tested by observation.

It follows that this chapter should include not only an account of my research methods, but also of my subject position and of the values and goals which influenced the selection, implementation and interpretation of those methods. These issues of purpose and positionality are considered in the opening section of the chapter. The next section describes each of my research methods and how they were employed. These methods include textual analysis; analysis of media reports; interviews; and giving interested parties an opportunity to comment on draft chapters. I use textual analysis to gain insights into the extent to which discourses promoting labour rights are gaining currency within Nike, Reebok and Adidas. I analyse media reports in order to assess, over time, how effectively the anti-sweatshop movement has challenged the public image of sports brands. I draw on interviews and focus groups with labour activists, in order to give an account of how the global anti-sweatshop movement functions and achieves its goals; with board members of the Fair Labor Association (FLA), in order to explore how that organisation understands and seeks to promote trade union rights; and with trade union leaders in Indonesia, in order to assess the extent to which the labour programs of FLA companies are assisting workers who are seeking to assert those rights. I check drafts of chapters with sports brands and with trade union leaders in Indonesia, in order to give those parties an opportunity to challenge my analysis and to provide additional evidence which may lead me to change my conclusions. The final section of the chapter deals with an issue which arose in the course of the research, how to manage, minimise and negotiate levels of risk for workers' whose factories are the subject of case-studies in Chapter 6.

Normativity, participation, positionality, reflexivity
As Harvey (1996, p. 56) and others argue, the values a researcher brings to a project

strongly influence the process of knowledge creation (see also Sayer 2007; Wills 2007). Like many of the geographers cited in previous chapters—including Gibson-Graham, Gilmore, Harvey, McDowell, O'Neill, Peet and Wills—I believe researchers should not only observe and interpret the world, but also seek to develop knowledge which plays a role in changing it. Although this thesis involves policy research, it is not only concerned with what policies should be in place, but also with identifying strategies which assist activists to influence the process of policy development (see Glasmeier 2007, p. 213). The thesis' main policy goal is greater respect for the rights to freedom of association and collective bargaining. Through a long process of participating in and observing campaigns to end exploitative work practices, I have come to regard these rights as important vehicles by which workers can gain greater influence over their wages and working lives.

Of course, issues of empowerment are also relevant to the research process itself. Advocates of participatory action research (PAR) question the traditional separation between researcher and research subject. For Kindon (2005, pp. 207-11), the defining characteristics of PAR are "the open negotiation of the research design and methodology with the people with whom you are working" and "an emphasis on supporting people's capacity to do their own research and analysis". While some aspects of the activism described in this thesis reflect the principles of PAR,[58] the thesis project itself does not meet the requirements of Kindon's definition. I have checked the draft text of relevant chapters with Indonesian unions in order to give them an opportunity to comment, but my design and methodology were not negotiated with or approved by those unions beforehand. While I intend to incorporate PAR practices into future research projects to a much greater degree, I also believe there is value in presenting research which retains a level of critical independence from the groups with whom the research is conducted (see Wilton 2004, p.117). When I produce a research report on trade union rights for Oxfam—and as I write this thesis—my interests intersect with, but are somewhat different to, the specific interests of the trade unions I work with. In my research and writing I am interested in whether workers' human rights

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[58] For example, when colleagues at Oxfam Australia and I commit to campaign in solidarity with union leaders in particular workplaces, we commit to a long-term process of consultation and cooperation; each campaign action is negotiated with the union leaders involved.

have been respected, rather than whether the interests of particular unions have been advanced. This reflects Oxfam's perspective as a "rights-based" organisation, but is also important for Oxfam's ongoing cooperation with different trade unions, many of which have conflictual relationships with each other. Journalists and other public commentators also expect critical distance between researcher and researched group, and this is part of the reason why academic voices are privileged.[59] Research which requires the approval of a particular group may lose this privileged position and hence have less influence on public debate (Wilton 2004).

This should not be read as an attempt to play the "god-trick" which Haraway condemns. I recognise this thesis is unavoidably *partial* in both senses of the word. It not only necessarily presents an incomplete account of its topic, it is also produced from a distinctive subject position (see Amin and Thrift 2002, pp.13, 26). Although I seek to engage honestly with available evidence, and to be open to the different voices and different interests involved, I still must choose which voices are privileged and which are given less emphasis. My account is one of many possible narratives, which could be, and in some case have been, produced from the intersection of different life experiences and different research methods.

A researchers' subject position not only influences what she looks for and how she interprets what she sees, it also influences how research subjects respond to her. When undertaking interviews, for example, Baxter and Eyles (1997, pp. 513-14) urge researchers to be mindful of how the interview process is influenced by the interaction between the interviewer and the interviewee's socio-economic backgrounds, education levels, ethnicity, biases, religious beliefs, and cultural characteristics. As Nagar and Geiger (2007, pp. 268-9) point out, however, reflecting on reflexivity in the research process is far from easy. Simply listing the racial, class, religious, caste, educational and other characteristics of interviewer and interviewee is inadequate to the task, since such

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[59] This perceived independence is not, of course, the only reason the voices of academics and major NGOs are accorded authority. This privilege is also associated with colonialist traditions of knowledge-creation and legitimation. In addition to commenting from their own perspective, it is therefore also important for academics and organisations like Oxfam to support local organisations in the South as they conduct and publish their own research. In pursuit of this goal, Oxfam Australia has, for example, separately funded joint research projects into the adequacy of minimum wages by coalitions of NGOs and unions in both Indonesia and Sri Lanka.

an approach essentialises these categories, and implies little communication across these boundaries is possible. Nagar and Geiger (p. 270) take seriously the impact on an interview process of an interviewer's characteristics and position within economic, political and institutional structures. They nonetheless question whether these complex layers of difference prevent effective communication and urge researchers to seek to undertake "border-crossings" by talking and listening carefully throughout the research process.

As an Anglo Celtic, male, middle-class, English-speaking, Australian labour activist and postgraduate student I have access to numerous privileges and freedoms which are denied to the Indonesian women and men working in sportswear factories who I interviewed for the case-studies considered in Chapter 6. Although I cannot fully understand how these differences influenced the interview process, reviewing transcripts—including re-translations—of interview and focus group discussions, I am persuaded our differences did not prevent the union leaders and organisers I interviewed from communicating their concerns and experiences. Women union leaders were, for example, relatively open about discussing issues which are quite sensitive in Indonesian culture, including menstrual leave[60] and the way sexual harassment is tied up with poverty as well as other power imbalances within factories. The following extract is from an interview I conducted on 14 July 2001, in Jakarta, Indonesia, in the home of another union leader, with a female union representative from Factory B.[61] The interpreter was a middle-class Indonesian woman and the union official I interviewed had been fired four months prior to the interview. I have marked with three dashes the spaces where the interpreter and the union representative spoke to each other in Bahasa Indonesia:

> Tim: Have there been any problems with sexual harassment by male supervisors to female workers?
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[60] Menstrual leave is a legal entitlement for women workers in Indonesia.
[61] Audio-tape held on file.

Interpreter: The chief of department liked her friend and touched her on the bottom, because her friend is sexy. Eventually they got married because she got pregnant to the chief of department and that's why they have to get married.

Tim: When did that happen?

Interpreter: They already have a one year old son. So one year ago.

Tim: And did your friend...was your friend happy to get married to this man?

Interpreter: First she got angry when he touched her bottom, but eventually she...maybe she like her chief of department, but maybe she thought that it was because of she gets money...maybe because of that. She said its quite personal so maybe she don't ask her friend this question.

Tim: Is that common? Or is that an unusual case?

Interpreter: So this case with the chief of department isn't usual, but there's also another girl with other chief that they touch you.

Tim: Is there any…So there's another girl who was touched by another supervisor?

Interpreter: Yes but only good looking, only good-looking or sexy girls

Tim: And is there...do they have any... is that still happening, or is it in the past?

Interpreter: It has happened until she got fired. For the last four months she doesn't know.

Tim: Is there any way workers can complain if they don't want to be touched? Is there anyone they can complain to?

Interpreter: They are too scared to report it. But they complain between friends.

Tim: What do they think would happen to them if they reported it?

Interpreter: They are afraid maybe because it is part of management what happened, so maybe they would be fired or dismissed.

Although I worked hard to establish relationships of trust and for the most part[62] listened carefully, I suspect this frankness in communication was due more to the confidence union leaders had gained in articulating workplace issues through their discussions with union members. All of the interpreters I worked with were Indonesian, and most were women, which may also have facilitated communication with female union leaders.

In my experience the political purposes which interviewer and interviewee bring to an interview are, if anything, more important influences over the quality of communication than cultural or socio-economic differences. During a research trip in 1998 I also interviewed representatives of Nike, Reebok and Adidas, and since then I have been in regular phone and e-mail contact with representatives of these firms. Although we usually share many similarities in terms of ethnicity and socio-economic status, their approach has, understandably, been influenced by my involvement in a campaign which is publicly critical of their companies. Although the interviews were useful in clarifying the company's official position, they were no more useful than reading the company's web site or making an e-mail enquiry. I had to rely on published interviews by others to gain the kind of spontaneous insights into company processes which can come from interviews marked by close rapport between researcher and interviewee. It is hard to imagine Nike representatives being as frank with me about the company's strategy for responding to anti-sweatshop campaigners as they were to the *Newsweek* reporter Tony Emerson, whose 2001 article is discussed in Chapter 4. Similarly my role as an activist has made it difficult for me to use interviews to gain the insights into the internal battles over labour codes of conduct which representatives of sportswear TNCs revealed in interviews with Mamic (2004), whose research is considered in Chapter 5. Of course, it is not only scholar activists whose political positions can limit their access to research

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[62] I found listening to audio-tapes of my research interviews provided important insights into the limitations of my own interview skills. Before I listened to the audio-tapes, I was unaware of my occasional tendency to interrupt interpreters, and also the way I occasionally start asking one question, and then stop, and ask another.

information. Pickles and Smith (2007, p. 157) report that the way researchers in post-socialist countries describe state socialism can have "immediate consequences for the kinds of social relations and research access that are possible". It is, however, important to acknowledge the way researchers' positionality shapes and limits our research options and outcomes.

Research methods

The discussion of reflexivity in the previous section has already introduced some of the issues associated with one of the main research techniques employed for this thesis, the use of interviews and focus group discussions.

Interviews and focus groups

This thesis draws on interviews with trade union leaders in Indonesia, with NGO representatives on the board of the Fair Labor Association (FLA) and with activists involved in the global anti-sweatshop movement. In all cases I used a semi-structured interview format, with primarily open-ended questions. When the interviewees made statements which I judged relevant and interesting, I encouraged them to provide additional information or comments. With a few exceptions, in addition to taking notes as the interviews progressed, I also audio-taped the interviews cited. Of all the interviews I conducted, those with union leaders in Indonesia have proved the most controversial, and this section focuses on those interviews in order to explain my interview methods.

The controversy arose in 2002 when, as part of my work with Oxfam Community Aid Abroad (OCAA), I used some of the interviews and focus groups conducted for this thesis as the basis for a report titled *We Are Not Machines* which was published by OCAA and a number of other NGOs (OCAA et. al. 2002). When the report was released, Nike told journalists it was already aware of the problems identified in the report as a result of academic research conducted by the Global Alliance for Workers and Communities (Global Alliance), an organisation funded by Nike to conduct research and run training programs for workers in Nike's supplier factories (GAWC

2001).[63] Nike noted that whereas *We Are Not Machines* was based on interviews and focus groups with 35 workers, Global Alliance had surveyed 4 000 Nike workers in Indonesia (*Portland Business Journal* 2002). Nike (2002) also claimed it was reporting quarterly to Global Alliance on progress in remediating the issues identified by Global Alliance's research, including all issues raised in OCAA's report. In response, OCAA pointed out Global Alliance's research and programs did not address two of the key issues considered in *We Are Not Machines*: respect for trade union rights and the adequacy of wages. In turn, Global Alliance responded with a critique of my research methods, which it made available to the press and e-mailed to a number of academic geographers and other scholars who conduct research into labour issues.

Global Alliance alleged I had failed to provide adequate information on research methodology; failed to verify serious allegations; failed to consult with a representative sample of workers; failed to provide supportive data to verify or qualify generalised and/or inconsistent statements; and that I used emotive language that more professional researchers would avoid (GAWC 2002). Global Alliance's external affairs director, Michael Allen, told the *Portland Business Journal* (2002) my research was selective and partial and described my report as "a paparazzi approach: a snapshot seemingly designed to expose and embarrass rather than generate any insight". He also suggested reports such as *We Are Not Machines* lack credibility because they are linked to a wider political agenda. OCAA (2002) rejected these criticisms and published a defence of the research.[64] Clearly research methods matter, not only in academia, but also in the fiercely contested world of public campaigns.

Selecting case studies and recruiting workers for interviews and focus group discussions
It is, of course, important for researchers to explain how case studies are chosen, how

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[63] Moran (2002, p. 95) notes the US$7.8 million which Nike paid the Global Alliance to fund the research in Indonesia and other countries was placed in a "blind trust" which was "designed so that donors could not revoke their support if the investigations by the Global Alliance reflected negatively on the companies". The Global Alliance's own documents make clear, however, that Nike had influence over the research process. For the assessment of Indonesian factories, at Nike's request the Global Alliance's researchers deliberately avoided conducting in-depth interviews with union representatives. Nike made this request "due to the uncertain labour situation at the time of the in-depth interviews, and to avoid confusion between the role of GA versus Nike's compliance staff" (GAWC 2001, p. 13).
[64] Copies of the Global Alliance critique and OCAA's response are held on file and are available on request.

interview respondents are recruited, and to provide a rationale for sample size (Baxter and Eyles 1997, p. 508). Chapter 6 is primarily composed of eight case studies. Both as part of the field research for this thesis and in my capacity as an employee of Oxfam Australia, I have conducted, and contributed to, research into respect for trade union rights in a number of sportswear factories which are not considered in that chapter (see for example GE 2001; OCAA et. al. 2002; OI et. al. 2004; OI 2006). Although I do not discuss this other research in detail, it informs my choice of case-studies and my analysis of them. In selecting the eight cases considered in the chapter I was balancing three considerations: my desire to present in-depth analysis of adequately narrated cases; the need to keep the thesis to a manageable length; and the need to present enough case-study material to justify some level of generalisation.[65] My purpose in the chapter is not to make a definitive assessment and comparison of the entire labour rights programs of Nike, Reebok and Adidas. Rather I aim to describe and analyse some of the different ways in which sports brands involved in the FLA have responded to allegations of trade union rights violations in particular workplaces.

Five of the eight workplaces considered in Chapter 6 are located in Indonesia, and it is in Indonesia that I conducted most of my direct interview research with workers. Of the three non-Indonesian cases, two involve factories producing for Nike—one in Thailand and the other in Sri Lanka—and the third involves two Reebok distribution centres in the US. I chose the US distribution centres because Reebok responded very differently to trade union rights issues in these centres, as compared with the company's approach to those rights in Indonesia and other parts of Asia. I chose the Sri Lankan and Thai factories because I wanted to assess the effectiveness of the FLA's third party complaint mechanism in dealing with alleged violations of trade union rights.[66] In each of these three non-Indonesian cases, almost[67] all my communication with trade union and NGO leaders has been by e-mail and phone, I have not conducted any face-to-face interviews

[65] I would have liked to include a case-study involving outworkers, since a growing proportion of workers in the global apparel industry are employed in this way. Unfortunately I was not able to make contact with a group of sportswear outworkers in the South who were trying to form a trade union. This reflects the limits of my networks, but may also reflect the fact that workers employed in this way face considerable barriers to organising.

[66] To the best of my knowledge, no third party complaints have been lodged with the FLA alleging violations of trade union rights in factories producing for Nike, Reebok or Adidas which are located in Indonesia.

[67] I did conduct one face-to-face interview with a Thai labour NGO leader involved in the Thai case.

with the workers involved. My analysis in these cases draws on public statements by sports brands, factory managers, and local trade unions or labour NGOs involved in the cases; on relevant correspondence between the sports brands and civil society groups; and, in the Thai and Sri Lankan cases, on FLA reports regarding the FLA's investigation and intervention.

The five Indonesian cases incorporate interviews I conducted specifically for this thesis project; interviews I have conducted in my role with Oxfam Australia; and interviews which I and my colleague Kelly Dent have commissioned others to undertake. The interviews and focus group discussions I conducted myself were held during ten research visits to Indonesia between 1998 and 2006 (tables 3.1 and 3.2). I relied on the assistance of local trade unions and labour rights organisations to arrange the interviews. Each interview or focus group usually lasted between one and three hours, and took place either in a union office or in the home of a union organiser. Where I quote workers' comments, I only include the English translation of the workers' statements, not the original Bahasa Indonesia.

As discussed in Chapter 6, up until Suharto's military regime came to an end in 1998 there was no freedom of association in Indonesia, only the Indonesian government union was allowed to operate. In the new post-Suharto legal environment, I wanted to focus my analysis on attempts by Indonesian workers to establish democratic trade unions in sportswear factories. Most of the new independent and democratic unions which have been established since 1998 are still struggling to establish themselves, and very few have established majority membership in any large factories. For four of the five Indonesian case-studies in Chapter 6, my interviews and focus group discussions were conducted with trade union representatives from Perbupas, the footwear section of the GSBI union federation. GSBI formed in the 1990s as a result of worker training and education programs run by Sisbikum,[68] an NGO which uses interactive theatre exercises to educate workers about labour rights. These four factories are large sportswear factories with between 3 500 and 11 000 employees. In each factory between 4 and 25

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[68] Sisbikum is an abbreviation of Saluran Informasi Sosial dan Bimbingan Hukum which translates as Channel for Social Information and Legal Guidance.

per cent of workers were Perbupas members during the research period, with the actual Perbupas membership in each factory varying from several hundred to several thousand. Factory C—the Indonesian case-study which did not involve Perbupas—is a smaller garment factory which employs 1 500 people. In this factory my interviews and focus group discussions were with members of another small, democratic, factory-based trade union which at times had as few as 30 members during the period in which the research was conducted.

I chose to interview leaders and organisers of democratic trade unions since I believed they would be well-placed to report on the extent to which they and their members were experiencing discrimination for their union activities. As pointed out in Global Alliance's critique, my research involved interviewing and holding focus group discussions with a very small percentage of the total number of workers in the factories I consider. I believe this is appropriate to my research subject for two reasons. One is that, as discussed later in this chapter, talking honestly and critically to external researchers about factory conditions can involve a number of risks for Indonesian factory workers. I believe leaders of independent unions in Indonesia are more aware of these risks than other workers and are in a better position to make judgements about them. The second is that, provided it can be established the workers interviewed are not misrepresenting or misinterpreting events, it does not take the interview testimony of large numbers of union leaders to establish whether or not freedom of association is being respected in a particular factory.

Interviews as accounts of events: establishing credibility of interview and focus group statements

In the social sciences, in-depth interviewing is more commonly relied on to gain insight into the way interview subjects perceive themselves and their experiences, rather than to provide the basis for historical accounts of events (Minichiello et. al. 1995, p. 93). I use interviews with Indonesian union leaders not only to understand how they perceive their situation, but also as one source of evidence regarding the extent to which trade union rights are respected in their factories. The validity of this interview evidence is therefore important. Baxter and Eyles (1997, p. 514) suggest a number of techniques for

Table 3.1
My field research in Indonesia, 1998-2002 (auspiced by the University of Newcastle)

Field Trip (dates)	Factory A (supplying Nike)	Factory B (supplying Nike)	Panarub (supplying Adidas)	Nikomas Gemilang[69] (supplying Nike & Adidas)
1998				
2/12 to 6/12	Informal meeting with Perbupas union leaders.	Informal meeting with Perbupas union leaders.	Informal meeting with Perbupas union leaders.	
2000				
16/3 to 2/4	Interviews with 2 union organisers (1 f, 1 m[70]) and a focus group discussion with other organisers.	Interviews with 2 union organisers (1 f, 1 m) and a focus group discussion with other organisers.		Interviews with two Nikomas employees (1m and 1 f) involved in organising workers.
2001				
13/7 to 23/7	Interviews with 2 union organisers (1 f, 1 m) and a focus group discussion with other organisers.	Interviews with 2 union organisers (1 f, 1 m) and a focus group discussion with other organisers.	Informal meeting with Perbupas union leaders.	Follow-up interviews with the two same labour organisers.
2002				
18/1 to 22/1	Focus group discussion with Perbupas union organisers.	Focus group discussion with Perbupas union organisers.	Focus group discussion with Perbupas union organisers.	Follow-up interviews with the two same labour organisers, plus a focus group discussion with other Nikomas workers.

establishing the credibility of interview statements, including prolonged engagement, persistent observation and triangulation. Although I have made regular research trips to Indonesia, my engagement with union leaders involved in these cases has primarily been conducted from a distance, via e-mail and sms text communication. For example, between December 1998 and August 2007 I either sent or received 4613 e-mails regarding labour conditions in the Panarub factory.[71] This communication included

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[69] I have chosen not to make the Nikomas Gemilang factory one of my case-studies in Chapter 6. While my assessment is that Nike and Adidas failed to adequately investigate allegations of violations of trade union rights in this factory, I do not believe the case adds any additional insights to those which emerge from the case-studies I do present. I provided an account of my research findings regarding Nikomas Gemilang in the *We Are Not Machines* report (OCAA et. al. 2002).

[70] That is, I conducted separate interviews with one female and one male union organiser.

[71] I arrived at this figure by using the search tool on my Eudora e-mail software to search my e-mail records for e-mails containing the word "Panarub".

Table 3.2
My field research in Indonesia regarding cases discussed in Chapter 6,
2003-2006 (auspiced by Oxfam Australia)[72]

Field Trip (dates)	Factory A (supplying Nike)	Panarub (supplying Adidas)	Factory C (supplying Reebok)	Spotec (supplying Reebok)
2003				
27/9 to 5/10: Joint field research with Bhumika Muchhala.	Separate focus group discussions with male and female Perbupas union leaders.	Focus group discussion with Perbupas union leaders.[73]	One interview, and one focus group discussion with union organisers.	Separate focus group discussions with male and female Perbupas union leaders.
2004				
14/12 to 22/12	Meeting with Perbupas leaders.			
2005				
23/3 to 3/4		Meeting with factory managers and local Adidas representative. Meetings with leaders of both unions at the factory.	Focus group discussion with union organisers.	
25/9 to 4/10		Meetings with leaders of both unions.	Meeting with union organisers.	
21/11 to 27/11		Meeting with factory managers and local Adidas representative. Focus group discussion with Perbupas union organisers.		Focus group discussion with Perbupas union leader and other union members.
2006				
29/7 to 8/8		Meeting with factory manager and local Adidas representative. Meeting with Perbupas union leaders.		

regularly receiving and translating e-mail updates from local unions regarding developments on the ground, requesting that sports brands investigate issues raised, sending the brand's response back to the union for further comment, and so on. The consistency between e-mail communication and statements made by union leaders during interviews and focus groups provided an important check on the credibility of interview statements.

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[72] Note that this table only includes research trips which I undertook personally, either alone or in cooperation with another researcher. In the period between 2004 and 2006 a colleague at Oxfam Australia, Kelly Dent, had a number of separate meetings with union leaders from Panarub, Factory C and Spotec. During this period she and I also commissioned other researchers to interview workers from Panarub and Factory C. These other meetings and interviews inform my case-studies in Chapter 6.
[73] Ms Muchhala conducted this focus group discussion. I was unable to assist due to illness.

In addition most of the interview and focus group statements cited in Chapter 6 have been triangulated with other research. Perbupas' 2003 allegations of anti-union discrimination at Panarub were verified by a WRC investigation in 2004, and Adidas agreed with most of the findings of that investigation, including the findings regarding trade union rights. Perbupas' claim that the dismissal of union leaders at Panarub in October 2005 violated FOA was supported by investigations by both the WRC and the Indonesian Human Rights Commission. Claims of violence against Perbupas leaders at Spotec were verified by a Reebok investigation, as were claims by workers in Factory C that their employer was discriminating against union leaders. It is only in relation to Factories A and B that I cite interview and focus group statements made to me by union leaders which have not been subsequently investigated and verified by other organisations. In the case-studies for these two factories I make it clear in the text I am citing the union leaders' views; I do not present their statements as undisputable facts. My primary purpose is to establish that the union leaders' allegations are serious enough—and credible enough—to require careful investigation by a company which claims to be monitoring respect for labour rights in its supply networks. For example, my criticism of Nike's investigation of the dismissal of Perbupas representatives from Factory A at the end of 2004 rests as much on Nike's own statements as it does on the evidence from my focus group discussion with workers. This is also true of the allegation made during an interview in July 2001 by a Perbupas representative from Factory B that she had been falsely accused of—and dismissed for—inciting her fellow-workers to break the law. In this case my criticism is primarily of the lack of transparency in Nike's investigation, if indeed such an investigation ever took place.

Nonetheless, by citing the union leaders' interview and focus group statements so extensively I do afford them a relatively privileged position in my text. A number of factors influenced my assessment that these statements were credible enough to warrant this emphasis. In interviews and focus groups Perbupas leaders from both these factories provided nuanced accounts, they did not paint situations in black and white. In the interviews and focus groups I conducted in July 2001, for example, Perbupas leaders not only talked about exploitative labour practices in their factories, they also described

important improvements in respect for FOA which had taken place since my previous research trip the year before. Perbupas leaders from both factories also described positive processes of democratic reform within the majority unions in their factories, even though they were in competition with those unions and in other respects were critical of the strategies and practices of the leaders of those unions. Another factor which gave me confidence in the Perbupas leaders' accounts was their consistency (Minichiello et. al. 1995, p. 94), not only in different interviews with the same person, but also in separate interviews with different union leaders from the same factory, and in e-mail communication from the union's national office. It is possible this consistency reflected a decision by the union leaders to jointly concoct misleading versions of events, but in my assessment this is highly unlikely. Different union leaders gave essentially the same accounts in different interviews, but used different words and gave different interpretations; there was not the consistency of phrasing and interpretation commonly associated with a rehearsed script.

Selection of quotations from interviews

Baxter and Eyles (1997, p. 509) also encourage researchers to explain how particular quotations are selected from interview transcripts for presentation in research texts. In Chapter 6 I mainly select quotations which pithily summarise a worker's perspective on the extent of, and reasons for, progress in respect for trade union rights in her factory; or else powerfully convey the difficulties faced by workers attempting to establish independent unions, including the specific challenges faced by women workers. I also chose quotations which were consistent with focus group and interview statements made by other Perbupas union organisers from the same factory.

The influence of interpreters on the interview process

Sutherland's (2003) PhD research regarding the representation and governance of outworking in the Australian clothing industry highlights the way an interpreter can influence the course of an interview. Her research demonstrates the value of working with an interpreter who is not directly engaged in working on the issue being researched, and of arranging re-translation of interviews in order to assess the interpreter's influence. Over the course of different research trips to Indonesia I worked

with six different interpreters. I deliberately avoided working with interpreters involved in labour rights campaigns, although some are involved in other forms of activism.[74] Based on Sutherland's insights I arranged for re-translation of relevant sections of a sample of my interviews and focus groups from the audio-tape. Since I placed relatively greater emphasis on interview and focus group evidence in the case-studies of Factories A and B, almost all of the interviews and focus groups I had re-translated relate to those two factories. I arranged for one translator to re-translate two July 2001 interviews with Perbupas representatives from Factory B. I asked another to re-translate the three January 2002 focus group discussions relating to Factory A, Factory B and Panarub, and a focus group discussion held with workers from Factory A on 3 October 2003.

While the re-translation did not identify any examples of the interpreters deliberately trying to influence interview outcomes in order to promote particular political perspectives, it did demonstrate the importance of interpreters' competence. I asked the translators to give an assessment of the accuracy of the interpreters' work. For each of the re-translated interviews the translators identified and highlighted what they described as minor inconsistencies, inaccuracies or weaknesses. The translator who re-translated the two July 2001 interviews noted she had made "only a few minor comments really, I think you can be pretty confident that your interpreters did a good job". The other translator described three of the translations she re-translated as "mostly correct", "generally quite accurate", and "okay". She was more critical of the interpreter's work during the focus group I conducted with Perbupas leaders from Factory B on 19 January 2002:

> The interpreter in this interview does not seem confident on the tape and this reflects in sometimes awkward or slightly inaccurate translations (I have highlighted these parts in yellow). This can be seen particularly in the first question regarding whether the details on [Factory B] can be included in the report; she doesn't quite seem to understand the question until TC rewords it several times. Overall, I would say it's not a terrible

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[74] One worked on human rights issues and another was involved in activism in support of gay and lesbian rights in Indonesia.

translation, it's just a bit sloppy in some parts that could have been worded better and been answered a lot more quickly.[75]

Based on reading the re-translations, my assessment is that in almost all cases the interpreters' limitations slowed down the process of discovering the workers' views I have cited in Chapter 6, rather than leading me to misinterpret or misunderstand them. I received the re-translations after I had completed my first draft of that chapter. For some of the quotations, where the re-translation is more precise I have used it instead of the original interpreter's translation. However, with one exception, the re-translation did not lead me to change my analysis of the interviews from that which I had written for the draft.

The exception relates to the interpretation which was most strongly criticised by the translator, the 19 January 2002 focus group discussion with workers from Factory B. During that focus group I wanted to get a final check on information which Perbupas had originally sent by e-mail to US labour activists Jim Keady and Leslie Kretzu,[76] and which I had confirmed with Perbupas leaders from Factory B during separate interviews in my previous research visit in July 2001. In the original e-mail Perbupas claimed the manager of Factory B had warned Perbupas that reporting problems at the factory to groups involved in the anti-sweatshop movement would cause Nike to cut orders to the factory. The Clean Clothes Campaign (CCC), OCAA, the International Labor Rights Fund (ILRF) and the Lawyers' Committee for Human Rights (LCHR) had taken up this issue and called on Nike to meet with the unions at the factory and convey to them the position Nike representatives were giving to journalists: that Nike would never cut orders as a result of workers speaking publicly about problems in a factory.[77] These international groups suggested an independent observer should participate in the proposed meeting and asked Nike to also make it clear to the unions that Nike would not cut orders because of industrial action. In an e-mail dated 21 December 2001,[78] Nike's Dusty Kidd declined to make these commitments to the unions in the factory,

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[75] Personal communication (e-mail) from Elena Williams, 13 July 2007 (copy held on file).
[76] Keady passed on the information to me by e-mail on 4 Feb. 2001 (copy held on file).
[77] The CCC wrote to Nike on 18 May 2001, ILRF and LCHR on 1 October 2001, and OCAA in December 2001 (copies held on file).
[78] Copy held on file by Oxfam Australia.

claiming it was unnecessary since "the parties we have spoken to did not confirm any such threats were made by management". During my focus group discussion with Perbupas leaders at Factory B on 19 January 2002, the workers affirmed that their employer had warned them not to talk to external researchers for fear of losing orders. This is clear in both the original interpreters' translation and the re-translation; what was not clearly communicated to me during the focus group was what Nike had communicated to the union leaders. This extract is from the re-translation:

> Interpreter: Ok, so when you met with Nike, did you ask whether or not it was true that Nike would move orders? What was their response?
>
> Male union leader: Yes it was true. From the very beginning they said they would not move orders.
>
> Interpreter to TC: So it's true that they [Nike]…
>
> TC:…refused to have the meeting?
>
> Interpreter to TC:—no, not refused to have meeting. Nike met with them and Nike never said that we will move the orders because of the publicity.

No-one had suggested Nike had directly told the union that Nike would cut orders to the factory because of public criticism—the allegation had been that the factory manager had said this to the union—so the interpretation I received during the interview did not strike me as significant. An accurate translation would have conveyed to me that Nike had promised the union Nike would *not* move orders from the factory because of negative publicity. It is strange Kidd told international groups that Nike did not see the need to do something which the company seems to have already done, but it is possible it was the international groups' request that Nike tell workers they wouldn't be punished for industrial action which Nike had concerns about, not the request regarding negative publicity. In any case, reading the re-translation of this interview led me to cut a section from the draft of Chapter 6, which had been critical of Nike for refusing to tell workers

it was okay to publicly report issues at the factory. This highlights the value of re-translation in interpreting interview data.

Checking interpretations with interviewees

Baxter and Eyles (1997, p. 509) recommends that researchers check the accuracy of their interpretations with interviewees. As required by the ethics committee of my university, where I have named interviewees I have obtained permission from that interviewee before including any quotes from the interviews in the thesis text. This provided an additional check on whether I was correctly representing their views, and in a couple of instances led me to drop references to interview statements when subsequent correspondence indicated I had misunderstood interviewee's perspectives. During my January 2002 research visit to Indonesia, I took the draft text of the sections of the *We Are Not Machines* report relating to Factory A and Factory B and checked the text with Perbupas union leaders from these two factories during focus group discussions. I also arranged for a full draft of the four Indonesian case-studies in Chapter 6 which involved Perbupas unions to be translated into Bahasa Indonesia. I e-mailed these translations to union's national office, and asked them to check for accuracy. The union did not suggest any corrections to the existing text regarding Factory A, Spotec or Panarub, but did send additional information updating the situation at Factory A. With regard to Factory B, GSBI noted that the union branch had disaffiliated from GSBI and reported that GSBI's attempts to discuss the draft with union leaders from the factory had failed.[79] For this reason my account of trade union rights issues at Factory B focuses on the period up to and including my fourth research visit in January 2002, during which trip I checked my interpretation of previous interviews and focus group discussions with the Perbupas leaders at the factory. I did not check the text of the fifth Indonesian case-study, Factory C, with the union involved since Reebok's investigation had endorsed the workers' interview evidence and because this case-study is substantially based on a previous account (see OI 2006, pp. 26-9) which had been checked with that union. As

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[79] Personal communication (e-mail) from Rudy HB Damman, President of the GSBI union, 11 Sep. 2007 (copy held on file). GSBI also requested a translation of the whole thesis once it is completed, a request which it may not be possible to fulfil because of the associated expense. I have committed to translating the final versions of Chapters 6 and 7 as a first step, and will then negotiate with GSBI and other Indonesian trade unions regarding which other sections of the thesis it would be useful to translate.

noted previously, the case-studies from Sri Lanka, Thailand and the US did not rely on interview research.

Giving parties an opportunity to comment

In addition to checking interview material with interviewees, I also gave other parties the opportunity to comment on some sections of the thesis. As discussed above, I had relevant sections of Chapter 6 translated into Bahasa Indonesia so they could be checked by Perbupas. I also sent Nike and Adidas full drafts of that chapter. Nike representative Caitlin Morris took issue with the fairness and accuracy of several aspects of the draft, and on some points her arguments led me to change the text. Adidas agreed to comment on the draft,[80] but did not do so before this thesis was finalised for examination. The company has indicated its willingness to send comments before any material in the thesis is submitted to journals for publication.[81] My narration of the case-studies for Factory C, Spotec, Panarub, Jaqalanka, MSP Sportswear and the Reebok distribution centres in Massachusetts is based in part on previous accounts of these cases which I and my colleague Kelly Dent prepared for an Oxfam International report (OI 2006). As part of the research process for that report, sports brands were given the opportunity to comment on several drafts of factory case-studies. Both Nike and Adidas commented extensively during that research process.

I also sent full drafts of Chapters 2, 4 and 5 to Nike, and of Chapter 5 to Adidas. In response to the draft of Chapter 4, Nike representative Caitlin Morris' only specific request was that I more thoroughly research the circumstances in which labour activist Jim Keady lost his job as soccer coach at St. John's University.[82] As this incident was peripheral to the overall account, I instead decided to drop the reference to this event. With regard to Chapter 5, Morris argued my initial draft failed to properly explain the lean manufacturing philosophy (Lean).[83] As a result of that feedback I added more information and analysis of Lean. Morris also commented on my analysis of the company's "balanced scorecard" approach to allocating orders and I have summarised

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[80] Personal communication (e-mail) from William Anderson of Adidas, 3 Aug. 2007 (copy held on file).
[81] Personal communication (e-mail) from Kitty Potter of Adidas, 30 Nov. 2007 (copy held on file).
[82] Personal communication (e-mail) from Caitlin Morris of Nike, 15 Sep. 2007 (copy held on file).
[83] Personal communication (e-mails) from Caitlin Morris of Nike, 27 Sep. and 2 Oct. 2007 (copies held on file).

and responded to these comments in Chapter 5. Morris noted her minimal response to the drafts of all the chapters I sent to Nike—Chapters 2, 4, 5 and 6—should not be interpreted as agreement with my arguments.[84] As with Chapter 6, Adidas did not send any comment or reaction to the draft of Chapter 5 before this thesis was finalised for examination.

E-thnography?

Ethnography's origins in anthropology mean it has been historically understood to involve researchers travelling long distances in order to live for many months and/or years among people of very different cultures to their own. While some human geographers have used the term to describe lengthy participant observation of people who are not particularly distant from the researcher's home, this version of ethnography still involves researchers getting out of their university and inhabiting a different space for an extended period in order to observe and experience a different culture (see Mountz 2007; Dunn 2007). My participation in the anti-sweatshop movement has involved considerable travel and cross-cultural communication, but my regular research trips to Indonesia, Thailand and other countries in Asia for one to three weeks at a time have been too short to be described as ethnographic. While I have been actively involved in the anti-sweatshop movement since before I started this thesis project, the great majority of my engagement has not involved any physical travel. From early in 1996 until May 2007 my work in the anti-sweatshop movement involved spending approximately 20 hours a week either in front of my home computer or else in my office at Oxfam Australia. From these locations I discussed campaign strategies by e-mail, sms and phone with trade union leaders and other labour activists around the world; wrote reports; contacted journalists; communicated with sports brands; responded to enquiries; prepared material for web sites; and planned campaign actions. At the time I did not regard this work as ethnographic research, but it has informed my understanding of how the movement works.

There are, of course, drawbacks associated with describing a process from the perspective of an insider (Hamilton 2006, p. 52). I have played a particular role within a

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[84] Personal communication (e-mail) from Caitlin Morris of Nike, 26 Sep. 2007 (copy held on file).

broad and complex movement, and my connections have been closer to some groups than others. My limited connection with some groups involved in this movement is in no way commensurate to the importance of the roles they play. There are only so many personal and work connections which any individual can sustain, and various overdetermined processes have led me to work more closely with some groups than others. In researching the movement I have sought to supplement my own experience with other information, but my account is still necessarily partial.

Textual Analysis

I employ textual analysis as part of my research into the way in which trade union rights and other labour rights are impacting on internal conversations and practices within Nike and Adidas. This research is guided by Fairclough's (2003) work on discourse analysis, and particularly by his account of the way in which different discourses co-exist and interact within organisations and other social systems.[85] I particularly use textual analysis in an extended discussion of *Innovate for a Better World*, Nike's corporate responsibility report for the 2005-6 Fiscal Year. I recognise texts prepared by corporations for public consumption often reveal more about how those corporations wish to be perceived than about the internal discourses which are helping to shape internal company processes and practices. For reasons described in Chapter 5, however, I believe this particular report gives important clues about how labour rights are being understood, interpreted and applied with Nike.

As Fairclough (2003, pp. 15-16) notes, textual analysis needs to be supplemented by other forms of research. My interpretation of Nike's report is influenced by Mamic's (2004) research interviews with sportswear staff regarding the implementation of codes of conduct and by a number of other well-researched reports into the operation of corporate labour codes. In Chapter 6, I use case-studies of the way Nike has responded to trade union rights issues in particular factories to further develop this analysis. Even so, as discussed earlier, my role as an activist limits my access to internal discussions held within sports brands, and the arguments I make and the conclusions I draw in this

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[85] Fairclough's concept of orders of discourse was discussed in Chapter 1.

thesis would benefit from further testing by researchers who are able to gain fuller access to these internal conversations.

Media Reports

In Chapter 4 I use the Factiva database search tool to assess the extent of international media coverage of sportswear companies' labour practices between 1990 and 2007. Factiva is a relatively blunt tool for making this kind of assessment, and I use it to gain a broad indication of trends rather than a precise measurement of media coverage. Although Factiva includes material from thousands of different newspapers and magazines, there are many publications which do not appear on the database. While almost all publications which appear on the database provide all their current content and material which is only a few years old, the extent to which they give Factiva access to archival material back as far as 1990 varies from publication to publication.[86] It is likely my search would have identified more articles in the 1990s if Factiva had full access to all its sources from 1990 until 2007. I also only searched articles in English, and it may be that coverage of the issue in other languages has followed different trajectories to the English language coverage.

In Chapter 4 I also provide an estimate of the number of articles picked up by the search which were not related to sweatshop allegations, which I describe as the "failure rate". Factiva has a tool for viewing articles called "keywords in context" which allows you to see only the paragraphs which contain the words for which you have searched. I read the "keywords in context" for a randomly selected sample of at least three per cent of the articles found in each two-year period. There were far fewer articles in 1990-91 and 1992-93, and for each of these two-year periods I randomly selected 10 articles for assessment. In addition to articles about sweatshop conditions, I counted as successful hits articles about steps sportswear brands were taking to improve labour conditions in their suppliers' factories. I counted as misses articles which described how sports brands

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[86] Unfortunately Factiva (2007) only provides information about access to sources on a source-by-source basis and does not provide overall statistics on the proportion of sources available in each year. I made a brief check of a few individual sources on 17 Sep. 2007. Some sources I checked were available for my full search period, including *The New York Times, The Independent, The Sydney Morning Herald* and *The Advertiser*. However the UK *Daily Telegraph* was only available from 2000; the Australian *Daily Telegraph* from 1996; *The Jakarta Post* from 1994; and the *Miami Herald* from 1994.

were attracted to cheap labour costs in developing countries, but which made no ethical judgment about the appropriateness of low wages.

Negotiating risk: ethical issues associated with research and campaigns regarding particular workplaces

> …this experience of personal danger in my research sites sensitised me to the prevalent risks that unauthorised Mexican migrants face on a daily basis… [the] dangerous and consistent threats (of deportation, injury, isolation and death)…Mexican workers are keenly aware of the hazards of crossing borders and the finite limits of their bodies, yet put these same bodies at risk daily. For them, transnational commuting has become an important survival strategy.
>
> *Cravey (2007, p. 253)*

When academic geographers and other professional social scientists conduct research with people experiencing social, economic and political hardship, we are usually intervening in dangerous worlds. Disadvantaged people's freedom to voice their experiences, let alone try to change their situation, is often deliberately constrained by more powerful groups. Gidwani (2007), for example, describes how, during field research in the village of Ashapuri in central Gujarat, his efforts to conduct interviews with members of the largest but poorest caste were continually thwarted by members of castes which were numerically smaller, but economically and politically dominant. As noted in the previous section, PAR and other action-oriented research methodologies involve working with members of disadvantaged communities to produce texts and other strategic responses which challenge the forces which create their disadvantage. Such challenges rarely pass unnoticed and may set in play counter strategies which pose considerable risks, usually not for the researcher, but for the groups with which they work.

As discussed in Chapter 2, clothing and footwear workers in Indonesia and other parts of the developing world take considerable risks if they try to organise democratic unions and bargain collectively. At the personal scale there is the possibility of violence, dismissal and blacklisting. At the workplace scale there is the possibility successful organising will lead either their employer, or their employer's customers, to shift

production elsewhere, potentially resulting in their factory's closure. As both an activist and a scholar I am committed to working in solidarity with sportswear workers to support their efforts to assert their rights and improve their situation. In making this commitment I, and more importantly they, face the possibility any joint strategy may result in negative rather than positive outcomes for them and their fellow-workers. From their perspective, it is not possible to know with certainty beforehand whether working with international researchers and campaigners will increase or reduce the risks they face.

With regard to the Indonesian case-studies described in Chapter 6, I negotiated with the union leaders I interviewed regarding whether, and to what extent, the research would identify their workplaces and them as individuals. We discussed three possibilities: first, that the research conceal the name and location of the workplace; second, that the research conceal the name of the workplace, but that I and other activists should privately lobby the relevant sportswear brand to improve respect for labour rights at that workplace; or third, that factories—and, where they were willing, individuals—should be named in both research and campaign work. The distinction between the second and third options in terms of risk is that if a factory is publicly "named and shamed" it may affect that factory's relationship with all current and future customers; if only one brand customer is lobbied then it is likely only the relationship with that brand customer will be put at risk. Union leaders from different factories chose different strategies at different times, and these strategies are reflected in whether or not I name the various factories in Chapter 6.

During negotiations with union leaders about these decisions, my ethical position has been that it is not for me to decide what level of risk they take, all I can do is give my honest assessment of the risk, including admitting my ignorance as to its exact nature, and be led by their decisions. The assessment I gave with regard to violence against union leaders was that, although my understanding of the issue is partial and limited, I believe international attention is likely to reduce rather than increase the likelihood of violence against trade union leaders in factories producing for well-known brands. I explained my view that sports brands are acutely sensitive to being publicly associated

with violence against workers producing their goods, and that sports brands will communicate this view to their suppliers. Union leaders experienced either violence or threats of violence in three of the eight cases considered in Chapter 6. In two of those cases—Spotec and Jaqualanka—this violence occurred before the factory became the subject of international campaigns or research, and once international activist groups drew sports brands' attention to the issue the violence ceased. In the third case—Factory A—a threat of violence was linked to a union leader's cooperation with international campaigners, but that threat was never acted on, even though the union leader ignored the threat and continued the international cooperation. This view, that international campaign attention reduces the likelihood of violence against union leaders, is also consistent with the Kuk Dong/Mex Mode case in Mexico, where union organisers experienced violence before, but not after, the case was brought to Nike and Reebok's attention (GE 2001, pp. 80-90).

With regard to the question of whether international research attention and campaign support increases or decreases the chances of a factory being closed, I again made it clear in discussion with Indonesian union leaders that my knowledge is partial and limited. I stated that if the factory was publicly named, international campaign groups would make it clear to the brands involved that we wanted them to keep ordering from the factory and work to solve the problems identified, and that cutting orders to the factory would invite strong public condemnation. I also noted that brands put a lot of pressure on suppliers to produce quickly and cheaply and that, until that changes, strike action may make factories less competitive and lead to reductions in orders.

Of the eight workplaces considered in Chapter 6, three are now either closed or operating with all workers on non-union, short-term contracts: Factory A, Spotec, and the Reebok distribution centres in Massachusetts. The distribution centres were never successfully organised, and the decision to close them appears to be driven by restructuring following Adidas' purchase of Reebok (*The Boston Globe* 2007). Spotec closed because it went bankrupt rather than because Adidas cut orders. As discussed in Chapter 6, the exact cause of Spotec's bankruptcy is unclear, but there is no evidence suggesting the closure is linked to Spotec workers having cooperated with international

campaigners or researchers. Within a few months of Spotec's closure, two other major Adidas sportshoe supplier factories in Indonesia also closed, and workers in these factories had not had any relationship with international labour groups. The owner of Factory A shifted all Nike orders to Factory B in 2004, five years after Perbupas union leaders in Factory A started cooperating with me and other international labour activists and a few months after a successful strike which led to a wage increase in the factory. In 2006 the factory owner closed Factory A and re-opened it a month later with workers employed on short-term contracts, and refused to re-employ any Perbupas members. It may well be the manager of Factory A shifted the Nike orders as a strategy to prevent international activists from pressuring Nike to ensure respect for freedom of association in the factory. In this case joint efforts by a trade union and international labour activists to improve respect for workers' rights at the factory were thwarted, and it was the members of the trade union who paid the price. This highlights the problematic nature of campaign solidarity and action-oriented research. Research which merely observes or describes situations brings little or no benefit to those groups who work with the researcher. Research and campaigns involving attempts to work with disadvantaged groups to give them more power are not always successful, and those groups who work with the researcher can end up worse off. In my view the answer is not to return to apolitical research methodologies, researchers can and should offer to support political action by disadvantaged groups. In doing so, however, we must recognise it is the disadvantaged groups which face the potential risks associated with political action, and it is those groups who must decide whether or not they want to take those risks.

Conclusion

This chapter opened with a discussion of Haraway's argument that all knowledge is situated. My research methods—and the way I have implemented those methods and recorded the results—necessarily only reveal a partial view of my subject. Although I have sought to hear, present and respond to multiple perspectives, like all researchers I am necessarily limited by my positionality, which both directs and constrains how I design, conduct, and learn from, the research process. This underlines the need for transparency, since it is only when researchers are open about how their knowledge is created that the kind of "epistemological conversations" espoused by Haraway (1988, p.

584) can take place. My research is guided by an ethical commitment to human rights, and particularly the rights to freedom of association and collective bargaining. I aim to propose and justify policies and strategies which will enhance respect for those rights. My long-term involvement in campaigns in support of those rights has given me privileged access to the perspectives of labour rights activists in numerous countries. It has also limited my access to internal company conversations, which are an important part of the story I want to tell. In Chapters 5 and 6 I rely on textual analysis, factory case-studies, and interview research conducted by other academics to develop and justify an account of the extent to which human rights discourses are influencing internal corporate decision-making processes within Nike, Reebok and Adidas. In doing so I recognise that more research into this subject by scholars with more privileged access to internal company processes would provide a valuable, additional measure of the adequacy of my propositions.

Conducting research for the Indonesian case-studies described in Chapter 6 raised a number of methodological and ethical issues. I recognise that cultural, economic, gender and social differences between me and the union leaders I interviewed necessarily influenced the outcome of those interviews, probably in ways I don't fully understand. I nonetheless also believe those differences do not exhaust the complexities of the power relationships between us, and that neither our differences, nor those additional complexities, prevented effective communication. The most difficult issue I faced was how to negotiate the risks associated with seeking to use research in a way which might bring practical benefits to the union leaders who shared their stories with me. While research methodologies which only benefit the researcher are rightly criticised, there is no guarantee of success when applying methodologies which seek to support disadvantaged groups as they challenge the forces which benefit from their disadvantage. There are risks associated with such approaches, and the risks are not usually faced by the researcher, but rather by the groups which are already disadvantaged. This is not a justification for political inaction, but it does highlight the need for researchers to respect the right of groups we work with to identify what level of risk they want to take, and to be as clear as possible about the nature and extent of the support we can offer.

Chapter 4

Narratives and networks. The international anti-sweatshop movement's campaign targeting Nike

I was only half a block away around 4 p.m. Tuesday, when the plate-glass windows on Seattle's downtown Nike emporium began to shatter. By the time I made it through the crowd to the storefront, four of seven windows were tumbling on to the sidewalk and a girl with a black bandito mask over her face and a rock in her hand was lining up to do in a fifth.

But she couldn't get a clear shot at the window. A petite, dark- haired woman—Kate Haltom, I later learned was her name—put her body between the rock-wielding anarchist and the plate glass.

''Get out of the -- --ing way,'' the bandita yelled. Haltom didn't move.

Swearing something further about ''sweat shops'', the girl changed aim slightly and hurled the rock through an already broken window, then stalked back into the crowd shaking her hands aloft in triumph, like a soccer player who's just scored.

Nobody cheered. Some booed. One protester went over to remonstrate with the bandita about the stupidity of breaking fully insured glass. Others joined Haltom on the sidewalk, and soon there was a cordon of anti-WTO protesters, putting their bodies on the line to protect Nike's property.

''It's not what I came down here for,'' Haltom said when I asked about the irony of risking her safety to protect a company with a dismal reputation on the labour and environment fronts...But she also wants no part of property destruction or looting. ''It wrecks everything we're trying to say down here,'' she says. ''It puts you on same level as the thieves in there,'' she says, gesturing towards the blockaded convention centre.

The Vancouver Sun (1999)

In December 1999 a major meeting of the World Trade Organisation (WTO) was held in Seattle, USA. An estimated 60 000 protestors converged on the city to protest what they saw as the lack of effective protection for labour rights, human rights and the environment within the free trade agenda pursued during previous WTO negotiations. The numbers involved in the protest surprised most media observers. The protestors represented a broad coalition, from organised labour and mainstream environmental

organisations to small groups pursuing specific and narrow agenda. The protestors singled out Nike and several other transnational corporations (TNCs) for condemnation, claiming these companies exemplified the evils resulting from current global trade arrangements. The protestors' adoption of Nike as a symbol of unfair trade illustrates the success of Nike campaigners in promoting their issue. But can such a broad and loosely organised set of movement networks, whose tactics are often argued out in the streets, influence the behaviour of powerful institutions? This chapter addresses this question, first by describing the international momentum generated by the campaign targeting Nike, and second by analysing some of the mechanisms which create and sustain its energy. In particular the chapter considers the role played by narrative in threatening corporate reputations and motivating activism. Subsequent chapters consider how Nike, Reebok and Adidas have responded to anti-sweatshop campaigns; the extent to which these companies' responses have increased sportswear workers' freedom to organise trade unions; and the implications of these findings for future campaign strategies.

Providing an account of the Nike campaign presents a number of challenges. The campaign has operated at a range of very different scales—from major internationally coordinated public actions to individual, and occasionally highly significant, acts of protest by actors on the peripheries of campaign networks. The campaign has been dispersed widely through time and space. At times when it has been flourishing in Melbourne or Hong Kong it may have been languishing in Portland or Jakarta. The campaign has lacked a clear hierarchical structure, the list of organisations devoting resources to it has varied considerably over time and it has been driven as much by volunteers as by professional campaigners. The campaign's history is also intensely contested. Nike's critics, the company's public relations staff, journalists and other story tellers are engaged continually in constructing alternate and conflicting accounts, not only of the nature of working conditions in Nike's suppliers' factories but also of the character and actions of the company and its critics. Nike's considerable marketing resources and public relations skills have been mobilised in order to challenge the credibility of anti-sweatshop campaigners, to promote the company as a leader in improving factory conditions, and to build relationships with other organisations which

Nike hopes will support the company's perspective. Nike's counter-campaign strategies have in turn generated responses from activist organisations, creating tangled and conflicting representations of events and institutions.

This mass of connected but disordered actions and actors does not fit easily into a simple narrative structure. Boje (2001a) uses a theatrical analogy to describe the complexity of the interaction between Nike, anti-sweatshop campaigners, journalists and other key actors. He calls it, "Nike Tamara"—Tamara being a popular Los Angeles play with stages in many rooms and a fragmented and mobile audience which tries to make sense of the simultaneous action. He notes the stories told within and between organisations and individuals involved in the issue network, flow, self-deconstruct and re-emerge in a manner which is "not at all static" and argues that the campaign inhabits "a post-modern and chaotic soup of storytelling" which resists simple plot sequences (Boje 2001a).

Boje responds to this complexity by applying a post-modern narrative style he calls "antenarrative". His use of the prefix *ante* invokes both its meaning as "before, preceding" and its use in gambling to refer to a bet, or a "stake put up by a player…before receiving cards" (*Oxford English Reference Dictionary* 1996, p.55). Antenarrative explores a narrative moment prior to the closure associated with set plot sequences and the "retrospective sense making" associated with established consensual historical narrative (Boje 2001b).[87] Antenarrative evokes gambling in that it remains open to the many stories in circulation and to the different stakes various actors have in whether one or other of these accounts gain currency and broad acceptance. Antenarrative is:

> non-linear, almost living storytelling that is fragmented, polyphonic (many voiced) and collectively produced...[It attempts to] shatter grand narrative into many small stories and to problematise any linear mono-voiced grand narrative of the past by replacing it with an

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[87] Boje's approach is similar to that of Bakhtin (Dentith 1995, pp. 94-7). Bakhtin's literary criticism celebrated polyphonic and carnivalesque novels in which different voices co-exist and interact and in which conflicts remain unresolved (see Bakhtin 1995, p. 224).

open polysemous (many-meanings) and multivocal (many-voiced) web of little stories. (Boje 2001b)

Drawing on these insights, in Chapter 4 I do not attempt a comprehensive history of the Nike campaign, nor do I attempt to fit it into a well-established plot sequence. Applying Boje's antenarrative technique, I instead tell some of the intersecting "little stories" which have played a role in the campaign's development. In doing so, I recognise my writing is unavoidably partial; while I attempt to convey a range of different voices, I cannot avoid privileging some and minimising others. As a long-time protagonist in the campaign, I must also decide how to describe and reflect on my own involvement. I do this by placing comments on my own experiences and role in footnotes in order to separate them, and hopefully prevent them from overwhelming, my observations on the campaign as a whole. In presenting this partial, multi-scaled and deliberately disjointed account, I aim to convey a sense of the Nike campaign's complexity, breadth and dynamism.

After narrating the campaign's history, the chapter then switches to what Boje calls "retrospective sense making". In this section, I utilise insights from network theories to consider seven factors which influence how effectively the anti-sweatshop movement achieves its goals. First, I describe the movement's organisational structure; second, the role of finances; third, the role of narrative; fourth, the role of values; fifth, the role of social interaction; sixth, the role of technology; and seventh, the nature of power relations within the movement. This analysis both draws out some of the movement's limitations and identifies processes which help account for its achievements.

Campaign Narratives
My narrative of the Nike campaign is in three parts. The first describes how the campaign began in Indonesia in 1991. The second briefly describes how the issue came to receive extensive international media coverage between February 1996 and April 1997. Although these first two sections contribute to an overall structure which is deliberately segmented and disjointed, within them I employ relatively traditional

narrative techniques. In the third section, which considers the campaign's history in the six months from August 2000 to March 2001, I apply Boje's antenarrative approach.

A small beginning – Jakarta, Indonesia, 1991

US labour rights activist Jeffrey Ballinger was based in Jakarta between 1988 and 1991 as the Indonesia program director for the US AFL-CIO union federation's international solidarity organisation—then known as the Asian American Free Labor Institute (AAFLI). Conditions in Nike's suppliers' factories in West Java initially came to Ballinger's attention in 1989, when Indonesian newspapers reported on wage protests in two factories supplying Nike and other brands.[88] In 1990, AAFLI organised research into compliance with Indonesia's minimum wage laws, and that research revealed Nike workers[89] had good reason to protest. It found factories producing for Nike persistently failed to pay even the legal minimum wage (AAFLI 1991).[90] As Ballinger tells it, it was around this time that Nike's marketing "started to become ubiquitous".[91] For him the contrast between the retail price of Nike shoes in the US and Europe and the below subsistence[92] wages paid to the Indonesian workers who made them presented "a way to distil a lot of information that wasn't really too interesting to people into a leaflet...a way to point to people's shoes and say 'you are part of this awful system out there'".[93]

Ballinger developed relationships with a number of Indonesian labour rights organisations which worked with Nike workers, and these groups came to play a key role in the campaign targeting labour conditions in Nike's supplier factories. The Suharto regime of the time only recognised the official government union and suppressed worker activism, but non-government organisations (NGOs) like the Urban Community Mission nonetheless sought to promote workers' empowerment. Urban

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[88] Information in this and a number of the following paragraphs is based on two interviews I conducted with Ballinger, one in New York on 5 October 1998 (audio-tape held on file) and the other by phone on 5 March 2001 (notes held on file).

[89] In this chapter I refer to workers producing Nike's goods as "Nike workers", even though Nike is not their direct employer.

[90] The survey was conducted by local level staff of the official Indonesian union and funded by a grant from the US Government's official aid organisation, USAID. Personal communication (e-mail) from Jeffrey Ballinger, 6 July 2001 (copy held on file).

[91] Interview by phone with Jeffrey Ballinger, 5 Mar. 2001 (notes held on file).

[92] In an e-mail dated 3 October 2007 (copy held on file), Ballinger noted AAFLI's research indicated workers relied on pay from extensive overtime to meet their subsistence needs, their full-time wage was not even adequate for subsistence.

[93] Interview by phone with Jeffrey Ballinger, 5 Mar. 2001 (notes held on file).

Community Mission had been running labour rights training for factory workers in and around Jakarta since 1983. Ballinger formed a close working relationship with the organisation's director, Indera Nababan, and from 1991 Nababan's organisation assisted Ballinger with a number of different research projects, and regularly arranged meetings between Nike workers and foreign journalists and activists.[94] Ballinger also worked with Apong Herlina and others at the labour section of the Jakarta office of the Indonesian Legal Aid Council. Between 1992 and 1998 that organisation provided legal representation to a number of union organisers who were fired from Nike contract factories. When the Indonesian government forced Ballinger to leave the country at the end of 1991, these groups kept him informed about conditions in Nike contract factories and he disseminated that information to journalists and interested organisations.

Reaching a mass audience - March 1996 to September 1997

> Today is 'Take Our Daughters to Work Day'. This is when girls 9 to 15 go to work. Or, as it's called at the Nike factory, Thursday.
>
> US Television Talk Show Host Bill Maher (cited in *The Oregonian* 1999)

It wasn't until 1996 that media interest in the issue increased significantly. The Factiva media database indicates that between 1990 and 1995 there was only a moderate amount of newspaper coverage of allegations of sweatshop conditions in sportswear factories in English-speaking papers around the world. In contrast, in the two years between 1996-97 more than 2 000 articles referred to the issue (table 4.1).[95] This surge in coverage can be attributed both to the work done by anti-sweatshop activists over the previous five years to build journalists' awareness of poor working conditions in Asia and Latin America, and to the way in which those activists influenced and capitalised on a particular set of events in the US in 1996.

Between 1992 and 1995 Ballinger had been based in Europe where he had, with sporadic success, energetically promoted the campaign to journalists and NGOs. He

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[94] This is based on meetings I had with Nababan in 1995, 1998 and 2000.
[95] Note that Factiva is a relatively blunt measuring instrument for this purpose and is used here to give a broad indication of trends rather than specific data on the extent of media coverage gained. Refer to Chapter 3 for a discussion of the limitations of using Factiva in this way.

estimates that during this period he called at least five journalists a week and encouraged them to write about conditions in Nike contract factories.[96] He also sent packages of information about the issue every couple of months to an extensive mailing list of journalists and human rights organisations. In 1992 *Harpers Magazine* published an article by him focusing on the pay stub of Sadisah, an Indonesia employee of Nike supplier Sung Hwa who had worked 63 hours of overtime during a one month period and had been paid only 14 cents per hour. In 1993 Sadisah and other workers involved in organising a strike at Sung Hwa were fired and Ballinger arranged for Sadisah to visit France, the Netherlands and the UK to draw attention to the issue. It was during this period the European anti-sweatshop campaign network, the Clean Clothes Campaign (CCC), became involved in the Nike campaign, and following Sadisah's tour there were one-off campaigns focusing on Nike's labour practices in five European countries.[97] The Canadian Catholic Organisation for Development and Peace also became interested in the issue during this period, and ran a major campaign from 1995-7 which involved gathering over 200 000 signatures on a petition calling on Nike to allow independent factory monitoring.

Table 4.1
Media Coverage of labour conditions in the production of sportswear

Years	1990 -91	1992 -93	1994 -95	1996 -97	1998 -99	2000 -01	2002 -03	2004 -05	1/1/06 – 17/09/07
No. of articles found in Factiva search	26	116	319	2317	1975	2009	1213	791	627
Estimated failure rate (percentages)	90	50	64	7	8	5	3	17	11
Estimated no. of articles about sportswear labour conditions	3	58	115	2155	1817	1909	1177	657	558 (averaged over 2 yrs = 650)

Source: "All Publications" searches of the Factiva database, conducted on 17 Sep. 2007[98]

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[96] In an e-mail to the author dated 6 July 2001 (copy held on file), Ballinger estimated that in the early 1990s he was, on average, calling five journalists each week. In the mid 1990s it was ten per week and in the late 1990s and early 2000s it was two per week.

[97] Interview by phone with Jeffrey Ballinger, 5 Mar. 2001 (notes held on file).

[98] I conducted the search on 17 September 2007 using the following text: (Nike or Reebok or adidas or Puma or New Balance or ASICS or FILA) near60 (factory or factories or worker* or labor or labour) near60 (sweatshop or sweatshops or exploit* or abus* or wage* or strike or child). The search term

The story of how labour conditions in Nike's supply networks became front-page news in 1996 and 1997 has been well-told by Shaw (1999, pp. 13-96). Media interest in sweatshop concerns had already been heightened by then US Secretary of Labor, Robert Reich. In the previous year, Reich had responded to Congress' refusal to approve more labour inspectors by instructing his department to publicly shame companies caught selling clothes made under exploitative conditions in the US. The US Department of Labor's *No Sweat* campaign was launched in August 1995, when a raid on a heavily guarded garment factory in Los Angeles found Thai and Mexican workers being held in virtual slavery. In a controversial, but widely reported move, Reich took the story to the media and named the retailers whose clothes were made in the factory (IRRC 1998, pp. 8-12).

Then, on 29 April 1996, the National Labor Committee (NLC) reported that clothes bearing the brand of high-profile US fashion celebrity Kathy Lee Gifford had been made in a Honduran factory where "13, 14 and 15 year old girls were forced to work 13 hours a day under armed guard, being paid 25 cents for every $19.96 pair of Kathie Lee Pants" (NLC 1998). What followed is a remarkable example of how celebrity involvement can increase the public profile of a social issue. Gifford's popularity in the US, and her dramatic response to the news, ensured the NLC's revelation generated intense media interest. She initially broke down in tears on her national TV show and threatened legal action against Kernaghan:

> You can say I'm ugly. You can say I'm not talented. But when you say I don't care about
> children and I will exploit them for some kind of monetary gain, for once, mister, you

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"near60" means "within 60 words of" and the * symbol means that all possible suffixes of a word are added to the search term. I included Nike, Reebok, Adidas, Puma and New Balance in the search because they are the world's five largest sports shoe brands. I included ASICS and FILA because they, along with Puma, were targeted during a major international anti-sweatshop campaign in 2004. The estimate for 2006-7 assumed the average weekly number of relevant articles in the final 15 weeks of 2007 would be equal to the average weekly number of articles which the database identified for the preceding 89 weeks. The estimated failure rate was determined by reading a random sample of at least 3 per cent of the articles found in each two-year period. The search phrase was only applied in English, not in other languages. According to Factiva's academic distributor, Proquest (2007), by searching "All Publications" I was accessing more than 2 100 newspapers, 3 200 journals and magazines, 500 newswires, and transcripts from more than 230 broadcasting organisations. "All publications" searches only access articles in printed publications, not material on internet sites.

better answer your phone, because my attorney is calling you today. (Quoted in Ortega 1998, p. 331)

Subsequently she had a change of heart and appeared on ABC's Prime Time Live, vowing to ensure that all clothes bearing her name were made under decent conditions. The next day the *New York Daily News* revealed that workers in a factory in New York a couple of blocks from her television studio were making her branded clothes for wages below the legal minimum, were not being paid for overtime and had not been paid at all in weeks (cited in Ortega 1998, p. 333). The NLC then arranged for Wendy Diaz, a 15 year-old worker from the Honduran factory, to come to the US to tell her story. On 29 May she told journalists at a press conference in Washington:

> If I could talk with Kathie Lee, I would ask her to help us so that they would stop yelling at us and hitting us, and so they would let us go to night school and let us organise to protect our rights. (Quoted in NLC 1996)

Two days later Gifford appeared at a press conference with Labor Secretary Reich and again promised to do what she could to fight sweatshops. She also appealed to other celebrities, including Nike's most famous endorser—basketballer Michael Jordan, to make sure clothing bearing their names was not made in sweatshops (*Associated Press* 1996).

This provided a key opening for media exposure of Nike's labour practices. A week later, on 6 June, *USA Today* (1996) published allegations by the USA Foundation that Nike's *Air Jordan* line of shoe was being made by 11-year-olds in Indonesia who were being paid 14 cents an hour. Nike denied the claims and the next day *The Oregonian* (1996) published Jordan's response, "I don't know the complete situation. Why should I? I'm trying to do my job. Hopefully, Nike will do the right thing, whatever that might be". On 16 June, Jordan's lack of interest in the issue was broadcast to a wider audience when he told *Time Magazine* (1996), "I'm not really aware of that. My job with Nike is to endorse the product. Their job is to be up on that". Although the *Time Magazine* article was sympathetic to Nike's position, Jordan's comments generated a strong media response, with some sportswriters contrasting his attitude with that of other African-

American sportspeople, such as Jackie Robinson, who had taken a more outspoken position on moral issues (cited in Shaw 1999, p. 34). *The New York Times* columnist Bob Herbert played a key role in giving media coverage of the issue more impetus. In June 1996 he wrote three scathing articles on Nike's labour practices: the first on the contrast between the low wages paid to Nike workers and the incomes of elite sport stars such as Jordan (*The New York Times* 1996c), the second arguing Nike and other companies sourcing from Indonesia were benefiting from the systematic repression of Indonesian people under the Suharto regime (*The New York Times* 1996a), and the third on the hypocrisy of the company's advertising campaigns promoting women's empowerment (*The New York Times*, 1996b).

Up until this point the Nike campaign's success at attracting media interest in the US had been based largely on Ballinger's phone calls and packages of information. In June 1996 Ballinger was approached by Medea Benjamin, one of the founding directors of Global Exchange, a human rights organisation based in San Francisco. Global Exchange had considerable experience in attracting media coverage for human rights issues, and offered the services of its full-time in-house public relations officer, Tony Newman, and of Newman's affiliated public relations firm, Communication Works (Shaw 1999, pp. 38, 265). Shaw (1999, pp. 37-65) describes how in the ensuing 18 months Global Exchange worked with Ballinger and other activists to use worker tours, campaign actions and reports on factory conditions to achieve considerable media coverage. In March 1997 labour conditions in Nike's supplier factories in Vietnam became front-page news across the US as a result of a report written by Vietnamese-American businessman/activist, Thuyen Nguyen, and promoted to the media by Global Exchange (Shaw 1999, p. 57). The campaign received an even bigger boost two months later, when internationally syndicated cartoonist Gary Trudeau took up the issue in his Doonesbury cartoon series. Kim, a Vietnamese-American character, discovered her cousin worked in a Nike factory and, after meeting her and seeing the conditions in which she worked, became an ardent anti-Nike campaigner (Shaw 1999, p. 57). Nike production in Vietnam again made headlines in November 1997, when revelations that Vietnamese workers making Nike sportshoes were being exposed to poisonous fumes at illegally high levels made the front page of *The New York Times* (1997).

Although there has been almost no front-page coverage since 1997, table 4.1 indicates that in the ensuing 10 years anti-sweatshop activists have managed to maintain reasonably high, albeit declining, levels of media interest in the wages and working conditions of sportswear workers. This has been due in no small part to the breadth of grass roots activism associated with the campaign. Organisations involved have continued to do research and release reports, but these have been supplemented by sporadic but recurring protest actions organised by a diverse range of campaign actors. The next section uses antenarrative techniques to describe this process during a particular six-month period.

The campaign as global virus, August 2000 to March 2001

On 12 March 2001 an article appeared in *Newsweek* suggesting Nike had overcome the threat to its image presented by anti-sweatshop critics (*Newsweek* 2001). According to Tony Emerson's story, Knight had decided in late 1997 that Nike needed to seize the initiative. He employed a public relations expert with a background in politics, Vada Manager, and gave him a considerable budget to employ consultants and executives to tackle challenges to the company's image as they arose. A team of company executives established a "War Room" from which to direct their work on the issue, and formulated a plan to become the industry leader in sweatshop reform and to vigorously promote that role to the press (*Newsweek* 2001). Knight launched this new approach in a speech to the US National Press Club in May 1998. He acknowledged that, "the Nike product has become synonymous with slave wages, forced overtime and arbitrary abuse" (quoted in *Los Angeles Times* 1999). He joked about having been called "the perfect corporate villain for these times," telling journalists:

> I figured that I'd just come out and let you journalists have a look at the great Satan up close and personal. But as long as I was going to do that, I thought that I might as well take along some of the Satanettes who are sitting out among you. Six of the owners and managers of Nike foreign factories are out there…(*Federal News Service* 1998)

In that speech Knight announced a series of labour initiatives, including raising the minimum age in supplier factories and providing after-hours educational opportunities

to Nike workers. Knight was quoted in the *Newsweek* article (2001) describing the speech as a "watershed event" that signalled a "sea change in the company culture".

Almost three years later the triumphalist and self-assured comments by Nike representatives recorded in the *Newsweek* article suggests they believed this strategy had been successful. They framed the debate as sport, a competition in which Nike's superior resources and knowledge of public relations would guarantee victory. Manager, a former member of US President Clinton's campaign team, described the strategy he was using with Nike as "…out of the Clinton playbook: leave no charge unanswered, control the agenda" (quoted in *Newsweek* 2001). The article described how Manager had employed extra security guards, and worked closely with the police, to counteract a series of student demonstrations at Nike stores across the US in August 2000. Manager told *Newsweek* (2001):

> When the students saw the growing security and police presence, it had a deterrent effect, and I think it went very smoothly. Nike approaches this as it approaches everything, as competition. And we aim to win.

The main US student anti-sweatshop group, United Students Against Sweatshops (USAS), had been founded only three years earlier and had grown so rapidly that by this stage it had chapters at more than 200 schools (*The Nation* 2000a; 2000b). Using aggressive tactics such as extended occupations of university offices, between 1999 and 2001 the students managed to persuade more than 100 US universities to adopt a labour code of conduct for the production of clothes bearing university logos and to require independent monitoring of source factories. The students had been assisted by sympathetic coverage in the mainstream press. In a research interview in 2001, then USAS member Ginger Gentile told me the editor of *The New York Times* offered the USAS chapter at Columbia University front-page coverage if they occupied the vice-chancellor's office. The University in turn threatened the students with instant expulsion should they organise such a protest, and the students decided against it.[99] Despite the media interest in USAS' campaigns, in the *Newsweek* (2001) article Nike

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[99] Interview with Ginger Gentile, Agatha Schmaedick and Chad Sullivan of USAS, Jakarta, 23 July 2001 (notes held on file).

representatives were quoted downplaying the threat which students and other activists posed to Nike's image. Nike's Vice-President for Corporate Responsibility, Dusty Kidd, said he believed, "One day the students will wake up and realise they've been used by their mentors in the union movement" (quoted in *Newsweek* 2001).

Although the *Newsweek* article was published in March 2001, the research for it had apparently been completed in August 2000.[100] Campaign developments in the intervening six months throw into question the article's description of Nike as a "teflon" company, adept at preventing allegations of poor practices from sticking to its brand image. While Nike was taking steps to undermine the students' tour, former US soccer professional Jim Keady and fellow activist Leslie Kretzu were spending August 2000 living among Nike workers in West Java and trying to survive on the equivalent of their full-time wage. Keady and Kretzu e-mailed photographs and daily diary entries to a friend in the US who put them up on a web site established for the purpose (EFJ 2002a). Keady lost 20 pounds and both described overwhelming feelings of hunger. The diary entries have considerable emotional intensity and the web site attracted a great deal of traffic.[101] In the entry for 14 August, for example, Kretzu described getting a headache, fever and nausea. She was strongly tempted to break her self-imposed economic discipline by buying medicine, but stops herself by asking what an Indonesian worker she had come to know would do in her situation:

> What would Fitri do? Fitri my new best friend? My new soul sister? Fitri who lives in a box in a poor, dirty, overcrowded neighborhood in the Adidas factory 'prison complex'. What would Fitri do? I don't know, but I think she'd actually go to work. Though if she could take the day off, I suppose she'd be in that one small, smelly, congested room she shares with two other women…lying on a paper-thin reed mat on an uneven cement floor covered in shelf paper, without the money to buy what she really needed. And she wouldn't have a choice. (EFJ 2002b)

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[100] I have assumed this since the journalist makes no mention of any campaign events which occurred after that month.
[101] The site generated more than 200 000 page accesses in its first five months. Source is the web site's editor, who gave me access to the site's traffic statistics. Personal communication (e-mail) from Jeff Lyons, 6 Sep. 2001 (copy held on file).

Two weeks before the opening of the Sydney Olympics in September 2000, Keady, Kretzu and Pierantozzi flew from Indonesia to Sydney where they were key participants in a campaign organised by FairWear, the Textile, Clothing and Footwear Union of Australia and Oxfam Community Aid Abroad (OCAA).[102] Nike was a key Olympic sponsor and Australian campaigners used the event to contrast Nike's labour practices with the Olympic Charter's call to promote respect for human dignity. Also in Australia for the campaign was an Indonesian factory worker, Julianto[103], who had recently lost his job at a Nike supplier as a result of helping to organise a strike. He told journalists and protestors of ongoing harassment of workers, of wages so low workers couldn't meet the needs of their children and of serious accidents occurring daily in his factory. Part of the translated speech he gave at campaign events read:

> Nike claims they have good conditions but this is a lie. Nike says wages are just—but actually they are too low to live on. Nike says they have safe conditions—but every week at least one worker loses part of a finger in dangerous machines. Nike says they recognise the right of workers to meet and form unions—but what actually happens is that if they organise meetings workers are threatened and intimidated. (OCAA 2001)

At the launch of the campaign at New South Wales Parliament House on 4 September, OCAA (2000) released a new report on suppression of workers' union rights in Nike contract factories, detailing violent intimidation of union organisers by factory managers. In Sydney the campaign also featured an alternative Olympic opening ceremony in which a giant sneaker the size of a small car was pulled by actors playing Nike workers and driven by an actor dressed as a whip-wielding Nike executive.[104]

In the same week, demonstrations outside the World Economic Forum (WEF) meeting in Melbourne confirmed Nike had not lost its status as one of the key targets of the movement protesting neo-liberal globalisation. Inspired by the demonstrations at the WTO meeting in Seattle nine months earlier, thousands of protestors attempted to blockade the WEF meeting. London's *The Independent (2000)* reported that "Hey,

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[102] I took six months leave from my PhD research to be the main organiser of this campaign.
[103] Like many Indonesians, Julianto only has one name.
[104] I was the author of the OCAA report and principle organiser of the alternative opening ceremony event.

Nike, you so bad. You so bad, you make me mad!" was a popular chant among the demonstrators. On 12 September the Australian trade union movement held a rally outside the main Melbourne Nike store involving 5 000 workers. At the rally Victorian Trades Hall Council secretary Leigh Hubbard condemned the company and demanded it pay fairer wages (*Asia Pulse* 2000).

These protests received extensive media coverage, including stories in *The Globe and Mail* (2000), *The Guardian* (2000), *The Independent* (2000), *The Jakarta Post* (2000), and *The Washington Post* (2000). The protests also featured in television news stories in Australia, the Netherlands, Spain, the UK and the US. On their arrival in Sydney, Nike-sponsored athletes Michael Johnson and Carl Lewis were cross-examined by journalists regarding Nike's labour practices.[105] Media coverage of the campaign far exceeded coverage of the release on 6 September of the annual report of the Global Alliance for Workers and Communities (Global Alliance). That report, research for which had been funded by Nike, suggested that wages and conditions in Nike contract factories in both Thailand and Vietnam were far better than critics had alleged (GAWC 2000).[106]

In October the *BBC's* flagship documentary program *Panorama* aired an episode questioning the adequacy of Nike's factory monitoring system (*BBC* 2000). The story included interviews with several workers from the June Textiles factory in Cambodia, supplier to both Nike and Gap, including one worker who said she was 12 years old. The workers told of being forced to work seven days per week while one described how she had been sworn at and had her hair pulled by a supervisor when she refused to work overtime. They claimed that full-time wages at the factory were barely adequate to cover rent and food. In the same month Dara O'Rourke, assistant professor of environmental and labour policy at the Massachusetts Institute of Technology, released

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[105] My source for information in this and the previous three sentences is OCAA's report on media coverage of Nike campaign actions in 2000. A copy is held on file and is available on request.

[106] On 27 September 2007 I conducted an "All Publications" search of the Factiva media database for the months of September and October 2000. I used the search terms "Nike" and "Global Alliance". The search only found 15 references. Of these, two didn't mention the Global Alliance report released on 6 September; two were public relations newswires authored by Nike; three were articles in industry journals; and three were different versions of the same *Associated Press* story. The limitations of Factiva as a research tool were considered in detail in Chapter 3.

a damning and well-publicised[107] report on the factory monitoring practices of PricewaterhouseCoopers (PwC), the company Nike was paying to monitor labour standards in its contract factories.

On 14 November 2000 in Thailand, protestors interrupted a ceremony in which Tiger Woods received an honorary doctorate in sports science from Kasetsart University. Among the demonstrators were former employees of Nike supplier Thai Iryo who had recently lost their jobs when the owner closed their factory and moved production to non-unionised facilities. A member of USAS worked with the Thai Labour Campaign to assist the workers in preparing theatrical costumes for the protest. The incident received international coverage—including stories in *Agence-France Press* (2000), *Houston Chronicle* (2000), *The Irish Times* (2000) and *National Post* (2000)—and a photo of a Thai grim reaper wielding a giant swoosh like an axe was used for later stories on Nike's labour practices (see for example *The Sydney Morning Herald* 2001)

Emerson's *Newsweek* article quoted leaders of the student anti-sweatshop movement in the US predicting that the manner in which Nike had undermined their demonstrations in August 2000 would only inspire wider protests. The students got their chance in mid-January. Workers at the Kuk Dong[108] factory, a Nike and Reebok contractor in southern Mexico, staged a strike and demanded decent wages, the right to be represented by their own union, and improvement in the quality of factory food—which they alleged was always of poor quality and was occasionally rancid and filled with worms. The students established close links with the striking workers and staged protests in universities across the country in support of their demands. The dispute at the factory and the students' support for the workers attracted mainstream media attention in the US, Canada, Australia and the UK[109] as well as extensive coverage in the university media in the US. The campaign was ultimately successful in persuading Nike and Reebok to support a secret ballot election at the factory, and workers were able to establish their

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[107] O'Rourke's report was covered in a number of major US newspapers including *The New York Times* (2000b) and *USA Today* (2000).
[108] The Kuk Dong factory subsequently changed its name to Mexmode.
[109] See for example *The Globe and Mail* (2001), *The Sun-Herald* (2001), *Financial Times* (2001) and *Associated Press* (2001a).

own union and negotiate a collective bargaining agreement (see Ross 2004, pp. 267-274; Esbenshade 2004b, pp. 188-91).

At about the same time as workers at Kuk Dong began their strike, a communications student at the Massachusetts Institute of Technology, Jonah Peretti, was passing on an e-mail to some friends which would, if anything, present a greater challenge to Nike's attempts to protect its image. Nike was offering consumers the opportunity to have a personalised message stitched into their Nike shoes. Peretti, who had not previously been active in the anti-sweatshop movement, wrote to the company requesting a pair of shoes bearing the word *Sweatshop*. Nike refused and Peretti subsequently engaged in a polite but comic e-mail correspondence with the company. When he forwarded a copy of the correspondence to some of his friends for their amusement it spread like an e-mail wildfire. Within a few months Peretti was receiving 500 e-mails a day with comments from people from every continent (*The Nation* 2001b). No press releases were issued but the e-mail became very popular with the mainstream press. Peretti debated Nike's Vada Manager on the *NBC Today* show and was interviewed on radio stations across the US, the UK and Australia (*The Australian Financial Review* 2001a). The story was covered by more than 60 newspapers and magazines, including the *Atlanta Constitution*, *The Bangkok Post*, *Business Week*, *The Canadian Press*, *The Chicago Tribune*, *The Guardian*, *The Independent*, *The Irish Times*, *The Los Angeles Times*, *The New York Times*, *The Scotsman*, *The San Francisco Chronicle*, *Time Magazine*, *The Sydney Morning Herald*, *USA Today* and *The Wall Street Journal*.[110] Peretti even produced his own analysis of the phenomenon. He argued in *The Nation* (2001b) that advances in information technology have dramatically undermined the power of corporations to use advertising to control their public image and that, "E-mail can be more powerful than mass-market ads".

Then in February 2001 Nike was forced to back-pedal from years of downplaying sweatshop allegations when the Global Alliance released a report on factory conditions in Nike supplier factories in Indonesia which included evidence of serious labour abuses

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[110] An "All Publications" search on the "Dow Jones Interactive" database for "Peretti and Nike and (sweatshop or sweatshops)" between 1 January 2001 and 7 May 2001 found 66 articles, including articles in the newspapers listed above. References for those articles are held on file and are available on request.

(GAWC 2001). When labour rights groups had previously brought such findings to public attention, Nike had responded by attempting to discredit their research. In this case Nike had paid for the research and so denial was not an option. Media coverage of the February 2001 report was dramatically higher than the earlier, less critical, Global Alliance report on conditions in Nike supplier factories in Thailand and Vietnam. Nike released a "remediation plan" at the same press conference in which the Global Alliance report was released and as a result there was a positive headline in the *Associated Press* (2001b) wire story: "Nike Promises to Remedy Factories". Although a number of newspapers used this upbeat headline, most quickly followed with details of the reports' findings. Even the *Associated Press* story's first sentence was: "Workers at nine of Nike's contract factories in Indonesia have witnessed verbal and physical abuse by supervisors against co-workers, and female employees being coerced into sex..." (*Associated Press* 2001b). *The Independent* (2001) in London ran with the headline "Nike admits sex abuse in Indonesian factories" and *The Guardian* (2001) with "Abuse rife in Indonesian Nike plants".

Then in March 2001, just as the *Newsweek* article hit the news-stands, 85 representatives of organisations involved in the anti-sweatshop movement from 35 countries in Europe, Asia, the Americas, Africa and Australia gathered in Barcelona for the CCC's five-yearly conference to evaluate progress and set future strategy.[111] Founded in 1991, the CCC had by this stage built an extensive network within Europe of 10 national-level coalitions of unions and civil society groups campaigning to improve conditions in the international clothing and sportswear industry, with Nike and Adidas among the major targets. The extensive international representation at the conference reflects the fact that European groups are cooperating intensively with a much broader international anti-sweatshop network and needed international input to set future strategy.[112] During the conference, a number of participants from Asia expressed disappointment that so little improvement had been achieved at the factory level after many years of research and activism. Despite these concerns, the overall mood of the

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[111] I participated in this meeting as a representative of OCAA. The *Newsweek* article was a notable point of discussion.
[112] One of the issues discussed was whether to internationalise the CCC's structure (CCC 2001b, p. 24). Within 12 months an Indian Clean Clothes Campaign had been established in Tiripur in South India.

conference was positive and, as discussed later in this section, important decisions were made about future directions for anti-sweatshop campaigns.

This six-month slice of the ongoing contest between Nike and its critics over sweatshop allegations suggests that by March 2001, when Emerson's *Newsweek* (2001) article appeared, the confidence of Nike's "War Room Team" would have seemed somewhat incongruous to those who had been closely following the issue. Rather than wilting in the face of a highly professional and well-resourced public relations campaign, the anti-sweatshop movement continued to attract high levels of media coverage and to demonstrate considerable energy.

Since 2001 that energy has dissipated to some extent, but the movement continues to put significant pressure on sports brands. At the CCC conference in March 2001, participants resolved to continue the focus on the sportswear industry, and to concentrate campaign energies on trying to increase respect for workers' right to organise. Participants also planned to make use of the opportunities for attracting media interest presented by major international sporting events such as the football World Cup in Korea and Japan scheduled to take place in June 2002 (CCC 2001b, p. 47). These decisions have been implemented in the years since 2001, with anti-sweatshop campaign activity arranged to coincide not only with the 2002 World Cup, but also the 2006 World Cup in Germany, and the 2004 Olympics in Athens. In 2004, for example, a coalition involving CCC, the International Textile, Garment and Leather Workers Federation (ITGLWF), the International Confederation of Free Trade Unions (ICFTU), Oxfam, the Asia Monitor Resource Center (AMRC), the Thai Labour Campaign and numerous other unions and NGOs ran a major campaign called Play Fair at the Olympics (PFAO). This campaign called on both sports brands and the Olympic movement to respect the rights of sportswear workers, with particular emphasis on workers' rights to form trade unions and bargain collectively.[113] According to the PFAO (2005) web site, in 2004 this campaign involved more than 500 local campaign events

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[113] Organisations involved in the campaign developed a "program of work for the sportswear industry" which can be accessed on the PFAO (2004) web site.

in more than 28 countries.[114] In 2008, CCC, ITGLWF, the International Trade Union Confederation (ITUC), and other groups are planning a similar campaign in the lead up to the Olympics in Beijing (see PF08 2007). The remainder of this chapter draws on network theories to analyse the factors which have contributed to the anti-sweatshop movement's vitality and endurance and to consider whether this momentum can be sustained and targeted in such a way as to achieve its goals.

Building an effective global campaign

Social movements are rarely hierarchically or bureaucratically structured, they commonly exhibit a "looser, more mobile and flexible form" and lack "a definite centre with binding decision-making power" (Knight & Greenberg 2002). Perhaps for these reasons, social movements are frequently conceptualised as networks (della Porta and Diani 1999, pp. 3-16). While Actant Network Theory (ANT)[115] is popular within economic geography (Barnes et. al. 2007, pp. 11-12), it is only one of a number of theoretical approaches which utilise the network metaphor. My analysis of the Nike campaign in this section draws not only on ANT, but also on the work of other sociologists and political scientists who analyse social movements as networks, including della Porta & Diani (1999), Gerlach (2001), Keck and Sikkink (1998), and Ronfeldt and Arquilla (2001). Like proponents of ANT, these other network theorists focus on how reciprocal and interdependent relationships between key actors are constructed and reproduced, and they recognise such interactions occur not only within organisations, but also between, through and outside of them.

Proponents of ANT have developed a particular vocabulary to describe and analyse these interactions. ANT uses the term *network* to refer both to an "assemblage of actants" and to the "patterns or regularities" which represent "modes of ordering" interactions between those actants (Whatmore 1999, p. 28). Such regularities are regarded as neither discrete nor permanent. Rather they are always "interwoven with other networks" and continually evolve through interaction with them (Amin and Thrift

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[114] The PFAO (2005) web site provides examples of campaign actions in each of these countries. During 2004 I was responsible for collecting information about PFAO campaign actions around the world and describing those actions in a monthly campaign newsletter.
[115] Actant Network Theory is also frequently called Actor Network Theory.

Table 4.2

Timeline of key Nike campaign events referred to in this chapter[116]

1990	AAFLI documents poor conditions in Indonesian factories supplying Nike.
From 1991	Ballinger regularly sends campaign information to journalists.
1993	Sadisah tours France, Netherlands, and UK. CCC joins Nike campaign.
1995	US Department of Labor starts *No Sweat* campaign. Development and Peace starts two-year campaign in Canada targeting Nike, gathers 200 000 signatures.
May 1996	After pledging to ensure her branded clothes are made under decent working conditions, Kathie Lee Gifford calls on Michael Jordan to do the same.
June 1996	*USA Today* reports allegations *Air Jordans* are being made by 11-year-olds in Indonesia. *The New York Times* columnist, Bob Herbert, writes three scathing articles on Nike's labour practices.
July 1996-December 1997	Around the world, labour rights groups organise worker tours, coordinate global campaign actions and produce reports on Nike supplier factories. Global Exchange helps ensure international media coverage is extensive.
March 1997	Front page coverage across the US of Nguyen's report into labour conditions in Nike's supplier factories in Vietnam.
May 1997	Doonesbury cartoon series takes up the campaign.
November 1997	*The New York Times* reports Nike workers' exposure to poisonous gases.
May 1998	Nike CEO Philip Knight's speech to the US National Press Club.
August 2000	Keady and Kretzu try to live on a Nike workers' wage in Indonesia.
September 2000	Campaign actions linked to the Sydney Olympics.
October 2000	O'Rourke's research, and an episode of *Panorama,* expose the inadequacy of Nike's factory monitoring system.
November 2000	Demonstration by Thai Nike workers embarrasses Tiger Woods.
January 2001	Peretti sends an e-mail to Nike, and it reaches many others. Striking workers at Kuk Dong factory receive campaign support from US labour groups. Workers eventually achieve union recognition and a collective bargaining agreement.
February 2001	Global Alliance research, funded by Nike, indicates serious labour abuses.
March 2001	CCC planning meeting in Barcelona. *Newsweek* article appears.
June 2002	AMRC organise campaign events during World Cup in Korea and Japan.
2004	PFAO campaign in the lead up to the Athens Olympics.

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[116] This timeline should not be read as a list of the most important events in the history of the Nike campaign. My narrative of the campaign is deliberately disjointed. A more traditional narrative technique would have resulted in a different history and a different timeline.

2002, p. 29). ANT uses the term actant rather than actor because it regards tools, animals, technologies and other entities as having a form of agency. ANT notes communication is always and everywhere mediated by things (Amin and Thrift 2002, p. 35) and that it is therefore important to consider the way in which "technical devices, instruments and graphics" interact with "bodily capacities, habits and skills" to produce and reproduce networks (Whatmore 1999, p. 29). Later in this chapter I analyse the role of e-mail in the anti-sweatshop movement. Conceptualising e-mail as an *actant* is not to suggest it can operate independently of people. Theorists influenced by ANT argue independence is an impossibility, for people as well as things. Change, as well as fixity or regularity, is produced through interaction. The person who sends an e-mail plays a different role in the process than does the keyboard she types on, the computer and the software which sorts the contribution, the modem and phone lines or cables which transport it, and the screens which display it, but each plays a role. We can analyse and categorise these roles, but from the perspective of ANT we cannot treat humans as subject and machines as object: each has effects on the other, just as each is acted upon.

Although the other network theorists discussed in this chapter do not use the same language to describe networks, the way they think about networks is broadly consistent with those aspects of ANT I have summarised in the previous paragraph. These non-ANT network theorists would not call e-mail an actant, for example, but they are well aware of the role which technologies like e-mail and the internet have on the operation of social movements. For the purposes of this chapter the most important difference between ANT and the other network analysis I cite is methodological. Latour, one of the primary developers of ANT, has described it as a "negative methodology" (quoted in Barnes et. al. 2007, p. 12). ANT approaches:

> ...privilege following networks, wherever they lead, while staying close to the ground...as Latour once gnomically pronounced, ANT is a 'negative methodology'. ANT's 'stories' are made in the telling; they do not follow a methodologically prescribed path. Methodological guidelines might even be considered somewhat contrary to the project. (Barnes et. al. 2007, p. 12)

Rather than following campaign networks "wherever they lead", in this section I take a more systematic approach. For the assessment of networks, Ronfeldt & Arquilla (2001, p. 323) suggest five levels of analysis—organisational, doctrinal, social, narrative and technological. I acknowledge categories such as this are overlapping and somewhat arbitrary; they represent entry points into describing processes in which all of these aspects are enmeshed. As a means of structuring a piece of writing they can, however, be useful. Rather than using the term "doctrinal" I refer more broadly to the role of "values, ideology and identity" in the movement. I also consider two further categories of analysis—finances and power relations. I am particularly interested in the role of narrative in the campaign and hence this issue is a theme running through most of the other sections.

How is the network organised?

In 1970, Gerlach and Hine published seminal research into a number of social movements in the US.[117] In Gerlach's (2001, pp. 289-90) words:

> We found that the most common type of organisation was…a segmentary, polycentric, and integrated network…
> • Segmentary: Composed of many diverse groups, which grow and die, divide and fuse, proliferate and contract.
> • Polycentric: Having multiple, often temporary, and sometimes competing leaders or centers of influence.
> • Networked: Forming a loose, reticulate, integrated network with multiple linkages through travellers, overlapping membership, joint activities, common reading matter, and shared ideals and opponents.

Each of these adjectives is relevant to the Nike campaign. It is segmentary; there is considerable diversity in the kinds of groups who participate and, while some have remained centrally involved for sustained periods, for others the intensity of their engagement has varied considerably over time. A small handful of individuals— Ballinger since 1991, myself since 1995, my colleague Kelly Dent since 2005, Keady

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[117] For comments on the significance of Gerlach and Hine's early research in this field see for example della Porta and Diani (1999, p. 14) and Arquilla & Ronfeldt (2001, p. 14).

and Kretzu since 2000—have made campaigning on labour practices in the sportswear industry a key priority, commonly spending between two and five days a week on campaign work focused on the one sector. We work closely with a much larger international network of organisations and individuals who have a similar level of commitment to workers' human rights and to the anti-sweatshop movement, but who target a broader range of companies. Although many of the key actors were introduced in the narrative section of this chapter, that account was necessarily selective. A more comprehensive history would require more on the role of the global union for apparel and footwear workers, the ITGLWF, and such organisations as the Asia Monitor Resource Centre (AMRC) and the Hong Kong Christian Industrial Committee in Hong Kong, the Korean House of International Solidarity, the Maquila Solidarity Network in Canada, and many other unions and labour rights organisations based in Asia, Latin America, Africa and Eastern Europe. In addition, large humanitarian organisations such as Christian Aid in the UK and Development and Peace in Canada have mobilised campaign resources in support of the Nike campaign for defined periods of time and then moved on to other issues. Most of these organisations and individuals have established constituencies of supporters who participate in campaigns by writing protest letters, sending donations and participating in demonstrations. Anti-sweatshop movement activists have also managed to establish relationships with others in a position to influence public debate on corporate responsibility, including politicians and journalists who are sympathetic to the campaign's goals.

The anti-sweatshop movement is also polycentric. Even among those who have maintained long-term, high-level engagement, no individual or organisation claims ownership or control. Rather than requiring consensus, or the authority of a single leader or group of leaders, individuals and organisations take it upon themselves to initiate campaign actions, either in consultation and cooperation with other network members or on their own. Debate over goals and strategies occurs, but there is no assumption that agreement is necessary before action takes place. No one individual or group can dictate what another group involved in the network might or might not do. This means there is not always a clear sense of how each separate tactic interacts with others in the pursuit of shared goals, and hence there is redundant activity and a certain

lack of strategic coherence (Knight & Greenberg 2002). But the campaign is not devoid of order or discipline. Although they do not have authority over other network members, long-time participants do seek to dissuade other campaigners from acting in ways that might undermine the campaign's reputation and credibility. Differences of opinion inevitably occur and while usually respectful, condemnation of particular steps has at times been fierce. While criticism and advice is not necessarily heeded, for most network participants it has an influence on their behaviour and tends toward facilitating greater unity of purpose and strategy.[118]

Those centrally involved in the campaign are also well aware that if all labour organisations call on Nike and other TNCs to do *different* things, then it is easier for TNCs to dismiss or ignore all of those calls. While there are significant disagreements across the movement regarding campaign demands (see Chapter 5), most labour organisations recognise that broad agreement on a set of demands would be valuable. CCC in particular has used conferences, meetings and publications to work toward a shared understanding of campaign goals among unions and non-government organisations in Europe, North America, Africa, Latin America, Asia and Australia[119] (see for example CCC 1997; 1998; 2001a; 2004). The joint publication of reports on conditions in Nike factories, with recommendations on how they can be improved, has also provided opportunities for groups involved in sportswear campaigns to renegotiate and restate common goals.[120] In 2004, there was considerable debate and discussion among organisations participating in the PFAO campaign before a "program of work for the sportswear industry" was finalised, and this program is probably the closest the movement has got to an agreed set of campaign demands.[121]

The movement is also networked, in the sense used by Gerlach (2001, pp. 289-90). Anti-sweatshop groups participate in various confidential e-mail list-servs, through

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[118] My primary source here is my own experience. Over the course of 11 years involvement I have often received e-mails or comments from others involved in the campaign in various parts of the world suggesting that something I have done or am doing could be improved or changed so as to enhance its contribution to the credibility of the international campaign. I have played the same role with others.
[119] When conducting research interviews for this thesis in 1998 I was struck by how many US unions and human rights groups told me that CCC publications were influential in guiding their approach to codes of conduct and factory monitoring systems.
[120] See for example OCAA et. al. (2002).
[121] This program can be accessed on the PFAO (2004) web site.

which they all receive, and to a lesser extent share, information relevant to the Nike campaign. On these list-servs the latest reports on factory conditions, on meetings with the company, and on the success or otherwise of campaign initiatives are disseminated by e-mail. Future strategies are also discussed, or at least flagged and then debated more intensely by e-mail among subsets of actors with higher levels of trust. E-mail contact is supplemented by phone calls and the international distribution of newsletters. Occasional international meetings such as that in Barcelona in March 2001 also bring together large numbers of key campaign participants and are important vehicles for building closer relationships between campaigners from different countries.

Although a segmentary and polycentric structure applies at the scale of the international campaign, as is common among social movements, a wide variety of other organisational forms apply at other scales (della Porta & Diani 1999, pp. 163-164). Many of the larger groups that participate, such as ITGLWF, ITUC and Oxfam, have established reputations which they need to protect and diverse and sizeable constituencies to which they are answerable, and hence tend to be more bureaucratic and hierarchical than smaller groups involved in the movement. Other groups, including Ballinger's Press For Change and Keady and Kretzu's Educating for Justice, are essentially one or two-person organisations. Some of the Asian NGOs which participate in the campaign, such as AMRC in Hong Kong, have five or six staff. Although such groups formally have a hierarchical structure, they are small enough for many decisions to be reached by consensus. AMRC (2006) in turn coordinates a number of regional labour rights networks in Asia, including one focused on health and safety issues and another on monitoring Asian TNCs. CCC describes itself as a network operating at a variety of scales. It has a European Secretariat office in Amsterdam, and 10 national campaigns linking approximately 200 unions and non-government organisations:

> The Clean Clothes Campaigns in each country are coalitions of consumer organisations, trade unions, human rights and women rights organisations, researchers, solidarity groups and activists. Every national campaign operates autonomously. However, we do work together towards international action. Twice a year representatives from the national secretariats of each CCC gather to exchange information and co-ordinate activities as they are needed on the international level (for example, in negotiations with multinational

companies). The campaigns co-operate with organisations all over the world, especially organisations of garment workers (in factories of all sizes), home workers and migrant workers (including those without valid working papers). (CCC 2001c)

In the US the organisational shape of USAS has been a source of considerable angst. It initially had a very loose, informal structure, but as it grew rapidly many participants came to believe a more formal arrangement was needed. The controversy came to a head at the organisation's August 2000 conference in Eugene, Oregon; where 29 hours of plenary meetings were spent debating the issue. USAS eventually adopted a more centralised structure, but not before anarchist participants in the movement evidently walked out of several meetings, some in tears (*The Nation* 2000a; 2000b).

Gerlach (2001, pp. 306-7) suggests that a "segmentary, polycentric, and networked" form of organisation can be highly effective:

> [It] makes the movement difficult to suppress; affords maximum penetration of and recruitment from different socio-economic and sub-cultural groups; contributes to system reliability through redundancy, duplication, and overlap; maximises adaptive variation through diversity of participants and purposes; and encourages social innovation and problem solving.

Although, as I discuss below, the anti-sweatshop movement has had difficulty building support across a range of different socio-economic and sub-cultural groups, Gerlach's other observations are highly relevant. The lack of a hierarchical decision-making structure has facilitated innovation and adaptive learning, allowing individual activists and organisations to experiment with new and potentially risky campaign activities. Other participants have been able to distance themselves from tactics with which they disagree or which prove counterproductive and to copy those that prove effective (Gerlach 2001). Thus in 1998, student activists at Duke University in the US occupied its president's office for 31 hours in order to persuade her to require disclosure of the locations of factories where Nike and other brands produced clothes under licence to the university. This strategy was subsequently copied successfully by students at Georgetown, Wisconsin, Michigan, Chapel Hill and numerous other US universities and

colleges (*Lingua Franca* 2001). Similarly, some groups have innovated methods for using e-mail and the internet to persuade supporters to protest to Nike and other companies regarding disputes at particular factories and, where they have been successful, these techniques have been emulated by other organisations involved in the movement.[122]

The range of skills and interests of organisations and individuals involved in the network has also facilitated specialised cooperation. Various campaign participants have developed reputations for expertise in particular fields, and other campaigners call on that expertise when initiating campaign activity. Thus Ira Arlook of the Washington-based communications firm New Economy Communications has provided free advice and assistance in gaining media coverage; Garrett Brown of the Maquiladora Health & Safety Support Network and others have provided expertise on factory health and safety issues; AMRC, Labour Action China and the Hong Kong Industrial Committee have researched conditions in factories in China and facilitated communication between labour rights groups in Asia; and so on. This pooling of skills and resources significantly enhances the ability of the movement to challenge a company whose access to resources dwarfs that of any single organisation involved in the campaign.

The role of finances in the network
Much academic analysis is based on relatively narrow explanations of human motivation: explanations which focus either on the pursuit of material benefit or on the advancement of collective identities built around a limited range of factors such as class, nationality or religion. Keck and Sikkink (1998, p. 2) argue that consequently scholars "have been slow to recognise either the rationality or the significance of activist networks". As in other social campaigns, many of the participants in the anti-sweatshop movement put considerable resources and energy into promoting policy changes that are largely unrelated to their own economic well-being (della Porta and Diani 1999, p. 53; Keck & Sikkink 1998, p. 9). Even among organisations and individuals with a high level of involvement, volunteer labour has been at least as important as paid work. The

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[122] In administering the NikeWatch campaign e-mail lists, for example, my colleague Kelly Dent and I have been influenced by the approach of Eric Lee, who administers the LabourStart web site and e-mail lists.

contribution of a number of key network participants, including Ballinger, Garrett Brown and Thuyen Nguyen, has been almost entirely voluntary, whereas others, including Keady and Kretzu, have moved between paid and voluntary contributions. At least in so far as professional anti-sweatshop campaigners in industrialised countries are concerned, my sense from research interviews and other interaction is that for most the decision to take activist jobs has involved accepting significantly lower pay than would have been available to them in other jobs. This reliance on lower-paid and volunteer labour partly reflects the difficulties activists face in attracting adequate funds to support their campaigns. This was a recurring theme in interviews I conducted in 1998 with key Nike campaigners in Europe, the US and Asia. Most of those I interviewed identified areas in which lack of resources were inhibiting the campaign's effectiveness, for example by limiting the quality of communication between Nike workers and activists in other countries[123] and by restricting the quality and quantity of research into factory conditions.[124] In 2000 the CCC (2001b, p. 62) evaluation of its campaign work over the previous five years reported that, "Capacity problems were noted at all levels".

As for other activist networks (see della Porta & Diani 1999, pp. 27, 53), it is primarily people's values which draw them into the anti-sweatshop movement, and organisations involved in the movement must appeal to others' values in order to access and utilise scarce material resources. Those organisations and individuals most centrally involved in the campaign targeting sports brands commonly obtain funds from individual donors, charitable foundations, other non-government organisations, unions and government bodies. In order to access this money they must demonstrate that the campaign embodies values with which the relevant donor identifies—or can be persuaded to identify—and they must construct and promote credible narratives in which the proposed campaign activity effectively advances those values. Similar strategies are necessary to maximise the effective use of financial resources by building alliances, mobilising volunteer support and conveying messages that resonate with target audiences. As Moaddel argues, "It is not simply that ideology contributes to the

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[123] Interview with Medea Benjamin in San Francisco, US on 27 Sep. 1998 (audio-tape held on file).
[124] Interview with Jeffrey Ballinger in New York, US on 5 Oct. 1998 (audio-tape held on file).

resources of certain groups vis-à-vis others, but rather the resources themselves are constituted through discourse" (quoted in della Porta & Diani 1999, p. 74).

The role of narrative in the network

Effective campaigns are "suffused with storytelling" (Zald 1998, p. 1097). As discussed earlier in this chapter, Boje (2001a) draws attention to the way the narrative terrain inhabited by the Nike campaign simultaneously contains and is constituted by a complex plethora of clashing stories which circulate within and across social networks and vie for credibility and acceptance in the public sphere. For activists and human rights groups the trustworthiness of their narratives is crucial. In order to persuade journalists and policy-makers, campaigners must present information that is not only dramatic but also "reliable and well documented" (Keck & Sikkink 1998, p. 19). As such, campaigners' "ability to generate information quickly and accurately, and deploy it effectively, is their most valuable currency…" (Keck & Sikkink 1998, p. 11). While some anti-Nike literature distributed at protests has at times been dated or of questionable accuracy, the reports released to the media by organisations with a high level of engagement with the issue have been more professional, usually based on confidential interview or survey research conducted with Nike workers. Nike in turn has funded alternative research that has, in most cases, presented a much more sympathetic picture of conditions in its supplier factories.[125] While each side has contested both the methodology of various reports and the credibility and independence of the organisations and individuals which prepared them (Shaw 1999, pp. 60-5),[126] the number of organisations and individuals producing research critical of the company has made it difficult for Nike to discredit their evidence.

Of course, if narratives are to mobilise large numbers of people then reliability alone is not enough. Campaign stories must also attract significant media attention, arouse emotional responses in many of those who hear them and persuade them that through participation in the campaign change is possible (Keck & Sikkink 1998, pp. 26-27; della

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[125] The exception to this is the Global Alliance report on factory conditions in Indonesia discussed earlier in this chapter (GAWC 2001).
[126] See for example the discussion in Chapter 3 of the debate between OCAA, Nike and the Global Alliance.

Porta & Diani 1999, p. 40; Ronfeldt & Arquilla 2001, pp. 328-32). Keck and Sikkink (1998, p. 27) argue that those campaign narratives which most frequently attract media interest and inspire mobilisation tend to involve either state-sanctioned discrimination or else accounts of physical suffering experienced by vulnerable individuals, especially where blame is relatively easy to assign. Stories of physical harm have played an important role in the campaign targeting Nike. Campaigners have regularly released reports to the media that document examples of severe hardship and insist that Nike has a responsibility to bring workers' suffering to an end.[127] The two reports which have gained most extensive international media coverage—Thuyen Nguyen's 1997 report on conditions in Nike factories in Vietnam (VLW 1997) and Dara O'Rourke's 1997 report analysing a leaked Nike factory audit by Ernst & Young (TRAC 1997)—involved stories of bodily harm. Nguyen's report highlighted an incident in which workers in a particular Nike supplier were punished by being forced to run around the factory until they collapsed from heat exhaustion. O'Rourke reported the illnesses which workers were suffering as a result of being exposed to toxic vapours.

Whether campaigners will be able to maintain the interest of mainstream media outlets in this evidence is another question.[128] There is a danger that narratives of workers' suffering will cease to be regarded as newsworthy, irrespective of how emotive they are and how carefully and reliably they are documented (Knight & Greenberg 2002). In order to keep the media spotlight on labour conditions in the production chains of sportswear brands, the movement needs continually to find novel, easily comprehended ways of framing the issue that resonate with the interests of journalists and their readers (Knight & Greenberg 2002). Several factors assist in this task. Sports brands' role as sponsors of famous athletes can generate media interest in the question of whether athletes should associate with such companies, and prominent sporting events offer useful venues for staging protests and releasing reports. The networks of relationships established between long-time campaigners, journalists interested in the issue and public relations experts sympathetic to the campaign, will also continue to be useful.

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[127] More than 20 such reports were produced between 1995 and 2002. For a set of links to some of these reports see OA (2006).
[128] For comments on the significance of mainstream media coverage to social movements see della Porta and Diani (1999, pp. 40,165-92).

Despite these advantages, the Factiva research recorded in table 4.1 suggests that since 2004 the biennial levels of media coverage of labour issues in the sportswear industry have been in the order of a third of what they were in the period from 1996 until 2001.[129] This fall in media coverage cannot easily be explained as resulting from a reduction in the effort which the anti-sweatshop movement has put into obtaining coverage. As noted above, the PFAO campaign in 2004 mobilised large numbers of people; released several reports into factory conditions; was associated with a major global sporting event; and was promoted to the media by the staff of a number of different organisations, including the 10 different CCC national campaign coalitions, the ICFTU, ITGLWF and 11 member organisations of Oxfam International. The number of people involved in campaign actions and in promoting the issue to the media was at least as great in 2004 as it was in 1996 or 1997. There were a number of differences between the way the movement campaigned in 2004 as compared with 1996-7, and some of these differences may have affected the different levels of media coverage achieved.[130] It is at least as likely, however, that the reduced coverage resulted from the similarity between the strategies employed in 2004 and those employed from 1996 to 2001. Certainly when conducting media interviews about the issue in recent years I have had several journalists point out to me that sweatshop conditions in the production of sportswear is not a "new" issue. Competition among social causes for mainstream journalists' attention is fierce, and turning an old issue into news will remain one of the movement's most difficult challenges.

Where journalists have told the stories arising from anti-sweatshop activists' research, the exact impact on their readers is difficult to gauge. A possible measure would be the influence on consumer attitudes and buying patterns. Although many organisations involved in the campaign do not advocate a direct boycott of Nike goods, most have sought to create a link in the public mind between Nike's brand image and factory

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[129] The limitations and advantages of the Factiva database as a research tool for this purpose were considered in Chapter 3.

[130] In 2004 more energy was put into attracting media attention in Europe than in the US, whereas in 1996/97 the reverse was true. The Factiva search I conducted for table 4.1 was only for English-speaking newspapers and magazines, and there may have been more media coverage in other languages in 2004 than in 1996. It is also possible the US plays a more central role in the production of global news, so that stories generated in major US newspapers are picked up globally to a greater extent than stories generated in major European papers.

conditions, in the hope that Nike will improve the latter in order to protect the former. In 1998 some company representatives suggested the campaign might be having some impact on sales. In the same year, Nike's Indonesian manager Tony Nava told *The Oregonian* (1998) that the extent to which labour rights concerns were responsible for falling sales "could be 1 per cent; it could be 20 per cent. I have no clue". Nike's annual report for that year also admitted the campaign may have contributed to falling sales and, remarkably, the cover included examples of letters to the company criticising its labour practices, including one which read, "Your actions so disgust me that I will never buy one of your products again. I hope my attitude proves to be universal" (cited in *Associated Press* 1998).[131] More recently Nike representatives have claimed the company has lost very few sales as a result of the campaign.[132] Opinion polls would provide another measure of the campaign's impact on consumer attitudes, but campaigners have not had the resources to fund such studies and Nike has not made public the results of its research. Occasional public comments about that research by company representatives have given contradictory indications regarding its findings. In September 1998 a Nike executive told *The New York Times* (1998a) that Nike's consumer surveys suggested the sweatshop issue was particularly important for female consumers, with the labour issue regularly "coming up in focus groups with girls as young as 12". The *Newsweek* (2001) article, however, quoted Manager saying his polling indicated anti-sweatshop activists are a marginal group with little support among consumers.

The impact of labour activists' stories on their own motivations is also an important aspect of social movements. Campaign narratives need to persuade current and potential activists that through participation change is possible (della Porta & Diani 1999, p. 67). At national and more localised scales, anti-sweatshop campaign networks have been most successful in attracting broad activist participation when they have agreed on the labour standards they will demand of companies or other institutions, established systems for investigating whether those standards are being implemented and have

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[131] Nike's 1998 annual report bore the title, "Everyone is entitled to their opinion" and the cover also included letters from consumers who loved Nike's products.
[132] See, for example, the interview with Nike vice-president Maria Eitel described in *The Australian Financial Review* (2002).

communicated each victory in persuading companies or institutions to become part of that system. The rapid growth in anti-sweatshop activism on US campuses is due in no small part to USAS' decision to focus on changing the buying practices of individual universities. USAS member Chad Sullivan told me in a research interview:

> As a university student it's hard to conceive of yourself changing government foreign policy or achieving the introduction of a universal public health care system. Through USAS, 10 students can organise a sit-in and change a University's policy, potentially making things better for workers in dozens of factories.[133]

Conversely, when campaigners fail to promote credible narratives in which people believe their actions can help to solve a problem, the campaign can result in apathy rather than activism. A 2001 survey into the effect of OCAA's NikeWatch campaign on attitudes among Queensland university students suggests that, in Australia at least, anti-sweatshop activists were at that stage failing to persuade potential supporters that their campaign had a chance of success. The survey was of 185 first year social science students at the University of Queensland. Over 75 per cent indicated they were "incensed" that garment workers were exploited and over 80 per cent reported it made them "frustrated and angry". But a higher proportion, 85 per cent, agreed with the suggestion that "trying to improve poor labour practices is more trouble than it is worth."[134]

The role of values, ideology and identity in the network

Since activists promulgate stories that invite audience participation, they need to engage with the way people understand themselves as subjects. Appeals to values are thus important motivators of protest action because of the role that they play in the construction of individuals' sense of identity—the broader conceptual and moral frameworks that influence how and why people live. Even for those peripherally

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[133] Interview with Ginger Gentile, Agatha Schmaedick and Chad Sullivan of USAS, Jakarta, Indonesia, 23 July 2001 (notes held on file).

[134] This unpublished survey was conducted by Scott Bretton and Lotte ten Hacken as a final-year research project for their Social Science degrees at the University of Queensland. I have a copy on file which is available on request. As Brenton and ten Hacken note, their sample is "arguably more likely to be active in promoting social justice than other sections of society". This makes it more significant that so few of the students interviewed were persuaded that change was achievable.

involved in a campaign, participating in protest action tends to be not only a statement about their position on a particular political or cultural issue but also an expression of their understanding of the world and their role in it, a reflection of how they give their lives meaning and significance (della Porta and Diani 1999, pp. 84-87).

There is a considerable literature on the role of identity construction in sustaining political movements.[135] Elements within many of the new social movements that have arisen since the 1960s have politicised particular cultural identities, for example by developing new understandings of what it means—and what it could mean—to be a woman or a man, to be a person of colour, or to be gay, lesbian or heterosexual. While sometimes referred to as "identity politics", it is not their focus on identity which differentiates these movements from other political formations. They arose in reaction to Marxist and liberal approaches which were just as reliant on promoting particular understandings of the self and its place and role in the world. What was new about these movements was their criticism of older left politics for promoting identities that universalised particular aspects of the life experience of some groups of people, such as Marxism's focus on identities constructed around class position within capitalist economic structures. The new social movements have in turn been criticised and challenged, by proponents of class politics for dividing the left, and by others for excluding diversity by building identities around one particular element of the multiple strands of gender, ethnicity, nationality, class, age, religion, economic position, physical ability, geography, sexuality and so on that affect people's life experience.

While one response to this has been the assertion and politicisation of the way different loci of identity—such as ethnicity, gender and sexual preference—mesh and interact (Jagose 1996, p. 63), another has been to critique the promotion of coherent and stable identities altogether. Drawing on Foucault, Butler (1993a; 1993b) conceptualises identities as repetitive, but not identical, performances of ideal characterisations. Thus for example subject formations linked to gender—like masculinity and femininity—are sets of physical and discursive practices which are constantly reproduced as they are re-enacted; gendered identities are something we perform, not something we are. Butler

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[135] There is of course a much broader literature debating the nature of identity (Pratt 2000b, p. 802).

(1993a, p. 95) does not, however, suggest humans are completely free to choose any identity they might desire. She argues that historical, cultural and political forces create very powerful norms, and while diversions from those norms are both possible and desirable, such diversions usually meet strong, and sometimes overwhelming, opposition from the 'regulatory fictions' which they resist.

While Butler's anti-essentialist analysis of the way in which identities are constructed and perpetuated is persuasive, the "queer" theoretical approach with which she is identified has been criticised for failing to acknowledge the constructive role played by identity formation in building social and political movements. Pratt (2000a, p. 368) argues the queer approach fails to acknowledge:

> ...the psychic and political demands for identification, the problem that anti-identity politics may jar with the lived experience of a coherent stable identity, and the fact that identities can be important political resources.

While Butler is strongly aware of the conservative and exclusionary tendencies of promoting new idealised characterisations, she also recognises that "…the normative model of an integrated and unified self has served emancipatory discourses" (quoted in Sutherland 2003, p. 199). She argues activists should be attuned to this paradox: aware that constructed identities can benefit political mobilisation, but also sensitive to the way in which the same processes of collective identification can exclude some people and pressure others to conform with practices which they may find oppressive (Butler 1993a, p. 19).[136]

The anti-sweatshop movement exemplifies these tensions. While it has drawn in people with a variety of different political identifications, in the global North it has often been seen as the preserve of white middle-class activists and has struggled to connect with political movements built around issues of ethnicity and anti-racism. On the positive side, the breadth of ideological beliefs held by participants in the movement demonstrates that the right narrative can draw together people from a relatively broad

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[136] This approach is similar to Spivak's version of strategic essentialism discussed in Chapter 1.

range of political affiliations. With regard to students involved in anti-sweatshop activism in the US:

> Some…embrace anarchism; many passionately resist any form of hierarchy within their organizations. One Penn freshman who participated in a February 2000 sit-in earnestly described himself as a "capitalist"; others, who range from Marxists to Students for a Democratic Society-style radical democrats, denounce capitalism with equal earnestness; still others are liberals with no particular visionary blueprint for the world. (*Lingua Franca* 2001).[137]

It is not commitment to a single narrowly defined long-term political vision—such as a Marxist revolution, or social democracy, or anarchism—which motivates anti-sweatshop activists to protest together. Rather they are motivated by a shared belief that exploitative working conditions are both intolerable and avoidable. They reject the arguments of neo-classical economists that low wages and poor working conditions are natural and necessary during a particular stage in a country's economic development. They instead adopt frameworks which problematise low wages and poor conditions and demand intervention in the market mechanism in order to protect workers' rights and interests.

However anti-sweatshop activists have not always found it easy to establish mutually supportive interaction with other political movements. On university campuses in the US the relationship between the predominantly Anglo-Saxon student anti-sweatshop movement and students of colour involved in anti-racist activism has been uncomfortable. Featherstone (2002, pp. 63-6) interviewed student activists of colour who were not involved in USAS and some expressed the view that USAS was relatively successful because issues of injustice overseas were much less threatening to university administrators than injustices within the US. Erica Smiley, an African-American activist at UNC-Chapel Hill, expressed annoyance at USAS, expressing the belief that USAS got a lot of recognition for being "cute white kids protesting injustices that are *far*

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[137] In a research interview I conducted with three members of USAS in Jakarta in 2001 they also noted that one of the reasons for USAS' success is that it has managed to enlist students who would not usually identify themselves as radicals or activists (Interview with Ginger Gentile, Agatha Schmaedick and Chad Sullivan of USAS, Jakarta, 23 July 2001, notes held on file).

away". She told Featherstone (2002, p. 66) that if USAS directed energy toward issues within the US, then "shit's going to go down. They're not going to be so cute any more". In the years since Featherstone conducted her research, USAS has placed more emphasis on anti-racist education for USAS members;[138] solidarity with anti-racist campaigns; and campaigns focusing on the rights of workers in the US, particularly university workers such as cleaners and hospitality staff.[139] It remains to be seen whether this will help USAS build closer alliances with anti-racist activists in the US.

The role of social interaction in the network

Identification with a campaign does not only involve intellectual assent to particular ideas and values and emotional responses to stories that affirm those values, it is bound up with the personal relationships which develop through interaction across campaign networks. Participation is not only oriented toward advancing a campaign's goals; it is also social, involving deepening trust and friendship, and in some cases marking out areas of distrust, among participants. This social interaction can challenge participants' political understanding and identification and can lead them to adopt or build new understandings of themselves and what is important to them. Movement networks are not "conveyor belts" for particular ideals but "vehicles for communicative and political exchange, with the potential for mutual transformation of participants" (Keck & Sikkink 1998, p. 214). Della Porta and Diani (1999, p. 87) argue the more intensively individuals are involved in a particular campaign the more important that campaign becomes to the way those individuals understand who they are and what they want to achieve in their lives. This in turn helps to sustain their involvement, since abandoning the movement could create a crisis of meaning (della Porta & Diani 1999, pp. 84-87).

This process of exchange and transformation of individual's identities helps to shape new collective identities, new groups to which individuals have a sense of belonging

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[138] On 11-12 May 2002 at the University of Chicago for example, USAS held a *Student-Labor Anti-Racism Training Workshop*. The goals of the workshop included to "contribute toward building a multi-racial movement, and to strengthen the capacities of white social justice activists to challenge racial oppression and white privilege within social justice movements" (E-mail by Tom Cogswell, Midwest Regional Organiser, USAS posted by Lenore Palladino to the midwestusas e-mail list-serv on 29 Apr. 2002, copy held on file).

[139] As of October 2007, USAS' web site listed branches on dozens of universities which were supporting campus workers' campaigns for better wages and the right to organise (USAS 2007).

(Keck & Sikkink 1998). The significance of this identification varies from person to person, since people's activities, connections and interests are multiple and these contribute to the creation of multiple co-existing self-representations. Different roles make competing demands on people's time and "through action, certain feelings of belonging come to be either reinforced or weakened" (della Porta & Diani 1999, p.87). For those who have high levels of engagement in campaigns for extended periods, their feelings of loyalty, obligation and connection with others with similar levels of involvement can come to be significant factors motivating their continued participation.[140] Conversely, decisions by key campaign participants to leave a movement can undermine the sense of collective identification. During the CCC major evaluation and strategy meeting in Barcelona in March 2001 it emerged that several long-time anti-sweatshop campaigners were about to leave the organisations they worked for and take up other careers. In discussions with them it was clear they had not reached these decisions lightly, and were experiencing some feelings of guilt and a sense of letting others down.[141] Two other campaigners at the conference, from different countries, expressed to me the sense of loss that the other campaigners' decision to leave had created, both at a personal level, and in terms of the amount of work which would be involved in building the levels of trust required to cooperate intensively with the new campaigners who would take up their positions.[142]

Of course, for most campaigners, identity is not primarily tied to just one issue or campaign; they pursue their political and personal interests through participation in multiple organisations. As della Porta and Diani (1999, pp. 100, 121) argue, "Even the identity of a single group can therefore be seen as a meeting point for histories, needs and heterogenous representations". In so far as the anti-sweatshop movement is concerned, this interaction with other activist networks is an important means of

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[140] I am reflecting here both on my own experience and of what I know of others who have been involved in the Nike campaign for extended periods. For me, personal connections are part of what motivates continued campaign involvement. To leave the campaign would involve feelings of grief and separation and a sense that I was letting down activists and workers in other countries who I count as friends. For comments on the role of friendship in motivating action see also Amin and Thrift (2002, p. 46).
[141] I am also reflecting on my own experience here. Through extensive involvement since 1995, anti-sweatshop activism has become a significant part of how I think about who I am and what I want to achieve in my life.
[142] For analyses of the importance of trust in the effective operation of activist movements see Pickerill (2001b) and Ronfeldt and Arquilla (2001, p. 342).

enhancing the resources available for campaign mobilisation. In the Netherlands the CCC was initiated by a group of activists who had been heavily involved in the squatters' movement in the late 1980s, and the organisation has extensive connections with other activist communities in Amsterdam.[143] In Australia, the FairWear campaign is closely linked with church and union movements, and gains discursive support and material resources from them. In the US, Campaign for Labor Rights has its origins in the Central American Solidarity movement, and its ideological approach and relationships with Central American unions and labour rights organisations draw on that history.[144] In the US the anti-sweatshop movement also has close links with the broader movement protesting neo-liberal globalisation. This movement, both documented and inspired by books such as Naomi Klein's *No Logo* (2000), has become much more visible since the demonstrations at the Seattle meeting of the WTO in 1999. That movement's adoption of Nike as a key target has substantially increased the level of protest activity focusing on the company.

The role of technology in the network

Advances in the capacity and affordability of communication technologies have made it easier for the anti-sweatshop movement to operate as a global network and to communicate its arguments to a broader audience. The growth in the use of the internet and internet chat sites, the reduced cost of both air-travel and telephone communication, the advent of mobile phones and SMS text messaging, and the increased availability of computer printers and photo-copiers are among a host of significant technological developments whose influence on the anti-sweatshop movement could be traced. In this section I illustrate the significance of the role that technology plays in the campaign by describing the way a particular technology, e-mail, enhances the ability of activists to disseminate information rapidly to very large audiences, cooperate across considerable distances and manage disagreement and conflict. For those who are able to access e-mail, it has dramatically broadened the potential audience, increased the speed, lengthened the geographical reach and reduced the cost of text-based communication.

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[143] Interview with Esther de Haan and Ineke Zeldenrust of the Clean Clothes Campaign's European Secretariat in Amsterdam, 25 Apr. 2002 (notes held on file).
[144] Interview with Trim Bissell, Coordinator of Campaign for Labour Rights, 6 Oct. 1998 (notes held on file).

As the popularity of Jonah Peretti's e-mail demonstrates, the right message can spread rapidly across very large populations. Through e-mail it is also now possible for organisations involved in the campaign to organise, inform and mobilise much larger numbers of supporters than would otherwise have been affordable. Just one organisation involved in the network, Campaign for Labor Rights, has over 12 000 subscribers to its monthly e-mail index, which provides updates on various labour struggles and calls for list members to take action by leafleting stores or sending letters or e-mails to targeted companies.[145]

E-mail also allows exclusive and confidential discussion list-servs and, as already noted, key campaign participants around the world are linked by such lists. Arguably the use of such lists has reduced the chaotic and strategically incoherent aspects of social movement organisation, and enhanced the capacity to cooperate and to learn from experimentation. On these lists it has been possible to debate the impact which various campaign strategies are having on each other, so that conflicting tactics are at least unlikely to result from ignorance of others' strategies. They have also provided a forum for managing—or at least mitigating the potentially negative impact of—personal and ideological clashes between members of the network. Organisations which may not otherwise be willing to communicate with each other are at least able through these lists to operate on the basis of shared knowledge of campaign developments. The lists have also been used successfully to coordinate international protest action. On three occasions during 1996 and 1997 Campaign for Labour Rights used e-mail to coordinate global protests against Nike. The most successful of these international days of action resulted in demonstrations in over 90 cities in 12 countries. In 1999 a joint letter from human rights groups was delivered to Nike's annual shareholders' meeting. Over a two-week period the letter went through five drafts and was eventually signed by 45 human rights organisations, unions and academic researchers from 15 countries. The whole process was conducted by e-mail, and would not have been attempted in the absence of

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[145] In May 2003, seven anti-sweatshop groups (Campaign for Labor Rights, Campana Ropa Limpia, Educating for Justice, Global Exchange, OCAA, Berne Declaration and FairWear) organised a "Global Month of Action against Sweatshops". Between them they had over 23 000 people on their anti-sweatshop e-mail lists.

this technology.[146] The greater connectivity associated with participation in e-mail lists has also allowed campaign successes to be rapidly and broadly communicated, facilitating the process whereby different organisations are encouraged by and learn from each other's initiatives.

With some notable exceptions the potential of e-mail to build sustainable and growing grass-roots anti-sweatshop movements at the local and national scale is yet to be fully explored. While most core campaign organisations have used internet sites and one-way e-mail lists to inform supporters of campaign developments and to enlist participation in campaign actions, few have encouraged local supporters to build their own interactive e-mail networks. USAS is the most striking exception to this. US students involved in the campaign have set up numerous national, regional and local list-servs which are variously used for planning local strategies, celebrating local victories, working on campaigns in support of workers in particular factories, organising regional meetings and electing organisational officials. This ardent commitment to open and egalitarian communication has not been without problems. Frequently USAS e-mail lists have been swamped by e-mails whose subject is peripheral to the organisation's goals, and there has often been confusion regarding the roles of various list members and problems with targeted companies spying on lists. These issues have been addressed via the development of more specialised lists (including lists which provide highlights from high-traffic lists) and by establishing procedures for the screening of new list members where confidentiality is necessary. While the widespread use of e-mail lists may have subjected those involved in this network to some frustrations, it has also allowed an inclusiveness that has contributed to the considerable dynamism of the students' campaign.[147]

E-mail also excludes or minimises the participation of some people in some areas. In many regions the physical infrastructure—telephone lines, internet service providers— necessary for e-mail has not yet been established. Even where the infrastructure is available, connections are often unreliable and slow. E-mail also makes certain

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[146] I initiated the letter and facilitated its initial drafting and the process of consultation.
[147] These comments are based on my membership and reading of several USAS e-mail lists.

economic, physical and educational demands which reduce the ability of many to participate. With regard to the international Nike campaign, local NGOs who have direct contact with Nike workers in countries like Indonesia and Thailand do participate in international campaign discussion lists, but for a variety of reasons, including limited proficiency in English, their contributions are far less frequent than those of campaigners in Europe, North America and Australia. In any case the NGOs' interests and views are not necessarily identical to those of workers. In recent years more local unions in countries like Sri Lanka, Indonesia and Bangladesh have managed to get access to e-mail and use it to communicate with campaigning organisations in the global North, or at least with those organisations which are able to arrange translations to and from English.[148] With an SMS message in Indonesia costing the equivalent of US$0.01, small independent unions in Indonesia and other countries in the South are also finding it makes sense to devote union funds to purchase mobile phones and use them to communicate with worker representatives in other factories and to receive calls and SMS messages from international campaigners. Similar technologies have been used to facilitate communication between the US organisation China Labor Watch and Reebok workers in a number of factories in China.[149] Despite these developments, limited access to technology is likely to remain a significant factor limiting the extent to which most sportswear workers and their representatives are able to actively participate in the global campaign.[150]

Power relations within the network

Differential access to the communication technologies which play such a vital role in the campaign is only one aspect of the controversial question of how power is distributed across the network. In his review of the literature on global movements involved in contesting the power of transnational corporations, Goodman (2001) suggests that while many such movements reflect a genuine attempt at international cooperation, others have justifiably been portrayed as dominated by unions and

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[148] Oxfam Australia has developed a database of volunteers who are willing to translate communication with unions and other labour rights groups in Indonesia, Thailand and other countries.

[149] Source here is the China Labor Watch web site (CLW 2001).

[150] In 2006 and 2007 Oxfam Australia has employed a consultant in Indonesia to facilitate direct communication with Indonesian trade unions—a recognition that communication by e-mail and sms is not as efficient as face-to-face communication.

development organisations based in the global North. Critics of these campaigns allege the voices of people in Asia, Latin America and Africa are controlled or at least mediated by such groups, if they are heard at all. Organisations based in the global North are accused of taking upon themselves the role of negotiating on behalf of people in the global South in order to establish codes of conduct and other instruments that afford limited policy gains and can undermine and exclude more radical political solutions (UNRISD 2001, p. 24). This has led such groups to be "characterised as elitist and as agents of global domination rather than as vehicles for emancipation from it" (Goodman 2001, p. 5).

In so far as the anti-sweatshop movement is concerned, power relations have been diverse and complex. They have evolved over the course of the campaign, contingent on the nature of particular campaign activities and the relationships between the groups undertaking each activity. In the global South, trade unions and human rights organisations are often relatively marginalised within their national polities and participation in transnational social movements allows them to increase their power to influence corporations and governments by calling on the assistance of international allies (Smith 1998; della Porta & Diani 1999). While such calls for support are not always heeded, as relationships of trust and mutual expectation have become established through ongoing cooperation, the quality and patterns of network ties shape the influence which network participants have over each other (Lucas et. al., 2001). Thus as groups in the South provide assistance to groups in the North in conducting research or responding to queries, their relationship deepens and the expectation and likelihood of reciprocal assistance increases. Hence the power exercised within networks is not only that which individual participants bring to the interaction, the process of network creation and recreation itself also transforms participants and creates and distributes power among them (Keck and Sikkink 1998, p. 207).

In the context of the anti-sweatshop movement, requests from organisations in the South have often resulted in international cooperation. For example, the request for help by workers in the Kuk Dong factory in Mexico resulted in international campaign actions on US universities and in other countries. In Chapter 6, I document seven other cases

where anti-sweatshop groups from the global North have provided campaign support to trade unions in Indonesia and other countries. In such cases participation in international campaign networks gave workers from the South and their organisations leverage which would not have otherwise been available to them. In other cases assistance has been less forthcoming. In Indonesia for example, although labour rights organisations are happy to receive solidarity support for workers whose rights are being suppressed in factories producing for companies being targeted by Northern campaigners, at times they have expressed disappointment and frustration at the limited support for workers' struggles in other factories and for campaigns on other issues, including attempts to reform Indonesia's labour laws.[151] For groups in the North, the extent to which they respond to requests for support is constrained both by limited resources and by their assessment of how much leverage they have to influence particular situations.

Where reports on conditions in Nike contract factories are initiated by organisations in the North the power relationship changes, since the Northern groups then depend on organisations in the South to assist in conducting the necessary research and to keep them informed of subsequent developments at the factory level (Caraway 2001). Although Northern groups sometimes pay groups or individual activists in the South to assist with this research, involvement in the campaign tends to be only a small part of Southern groups' activities and funding. In her analysis of interaction between US and Indonesian groups involved in the Nike campaign, Caraway argues "this absence of financial dependence combined with the informal nature of contacts and the dual arena of action—both the US and Indonesia—provides more opportunities for Indonesians to participate in international campaigns" (Caraway 2001). Caraway's interview research indicates Indonesian groups have found campaign allies in the US to be open in incorporating other ideas and priorities into joint activities. The Urban Community Mission, for example, commonly insists that workers themselves conduct the research, in order to increase their skills and understanding of their situation (Caraway 2001). Dependence on groups in the South for up-to-date information has also created some frustrations for Northern groups. Communication with international campaigners has at

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[151]At the CCC evaluation and strategy meeting in Barcelona in 2001, groups from the South tended to favour expanding campaign targets to cover other product sectors whereas European groups favoured maintaining the focus on apparel (CCC 2001b, p. 21).

times been a low priority for Indonesian groups, particularly when requests for information or help arrive in English. Even those Northern groups with a commitment to translating all communication into Bahasa Indonesia have found the other priorities of Indonesian groups mean that replies can still be slow in coming.[152]

Keck and Sikkink (1998, p. 19) note that, once research interviews and data collection is completed, "local people…sometimes lose control over their stories in a transnational campaign". The extent to which this occurs in the anti-sweatshop movement varies depending on the organisations involved. Some researchers go to considerable lengths to ensure workers are happy with the way their story will be told. In other cases, organisations in the South have been frustrated by the lack of consultation. In a research interview, Kelly Dent, then working in TIE-Asia's Sri Lankan office, told me a particular Northern NGO involved in the anti-sweatshop movement had a poor reputation for respecting workers' views. In one case that NGO published workers' stories in a manner which put their livelihoods in danger without adequate consultation either with those workers or with the Southern organisation which had arranged the research meetings. As a result, many Asian labour groups avoid cooperating with that organisation.[153]

Finally it should be noted that in Indonesia and other countries of the South the relationships between labour rights NGOs and workers themselves can also be complicated. The NGOs are commonly run by well-educated activists, and class differences can occasionally replicate the hierarchical relationships present in Indonesian society, with NGO staff attempting to instruct factory workers how they should respond to their work situation. With regard to the international campaign, local labour rights NGOs and factory workers have somewhat different interests. The NGOs tend to be more focused on the macro scale, hoping to persuade workers to risk organising, taking political action and speaking openly about their factory conditions in

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[152] When I interviewed Medea Benjamin of Global Exchange in 1998, for example, she noted that inconsistent communication from Indonesian groups involved in the campaign was a making it difficult for Global Exchange and other Northern campaign organisations to maintain pressure on Nike (Interview with Medea Benjamin, San Francisco, 27 Sep. 1998, audio-tape held on file).
[153] Interview with Kelly Dent, Bandung, Indonesia, 9 Mar. 2001 (my notes, and Dent's subsequent e-mail granting permission to cite her in this way, are held on file). At that time, Dent was co-ordinator of TIE Asia.

order that the cause of respect for workers' rights can be advanced. Workers themselves want decent working conditions, but are also very concerned with their daily survival and are often wary of doing anything which might jeopardise their jobs or those of their workmates.

Conclusion

The global anti-sweatshop movement has demonstrated remarkable energy and considerable resilience. The cultural prominence of Nike and other heavily promoted consumer brands makes those brands vulnerable to criticism, particularly where there is a strong contradiction between the company's production practices and the values it is seeking to link to its brand. In 1996 and 1997 US organisations and individuals involved in the campaign employed specialist skills in public relations to capitalise on this contradiction and achieve significant international media coverage of exploitative practices in the production networks of Nike and other companies. Although reports of labour issues in sportswear factories did not return to the front pages of mainstream newspapers in subsequent years, despite lacking in financial resources the global anti-sweatshop movement has managed to maintain a steady level of media interest in its issue, to mobilise significant numbers of people to take protest action, and to maintain its challenge to the image of some highly successful global brands

In this chapter I have used Boje's antenarrative method to illustrate how the campaign has evolved. Narrative has itself played a crucial role in that evolution. Anti-sweatshop campaigns are implemented by multiple organisations of a wide variety of sizes and forms. There are numerous centres of influence and in most cases decisions taken by movement leaders do not bind others; the leaders' power comes from their ability to persuade and motivate. Cooperation between organisations and individuals involved in the movement occurs because of, and through, stories that embody and promote values and goals that form part of participants' identities. Activists and workers have built long-term relationships which have facilitated the flow of credible information about the denial of workers' rights at the factory floor to journalists and interested citizens. They have been assisted in this by technological developments, including the growth of e-mail and the internet, which have extended, multiplied, sped up and reduced the cost of

communication between and within innumerable intersecting social and activist networks. While these stories continually unsettle attempts by Nike and other companies to discredit the movement, they also reinforce the motivation of activists involved in the campaign. They remind them what they are fighting against by drawing attention to practices that are contrary to their sense of what is right. Although these stories sometimes conceal power imbalances between activists in the North and activists in the South, or reflect failures to build alliances which cross racial and ethnic boundaries, this is not always the case. The story-telling and other interaction between activists from different cultural and socio-economic backgrounds can also deepen reciprocal relationships of loyalty and obligation, and challenge activists to operate in ways which are more inclusive, cooperative and respectful.

There is no doubt the protest activity and media coverage generated by the global anti-sweatshop movement has had an impact on Nike and other major sports brands. In 1991, when the campaign began, the amount of resources Nike was devoting to the welfare of factory workers was negligible. By 2002 Nike had publicly committed to ensuring workers' trade union rights and other core labour rights were respected in the company's supplier networks, and was employing 100 people in its corporate responsibility department, many of them responsible for monitoring suppliers' compliance with those rights (*The Australian Financial Review* 2002). In that year Nike and other companies involved in the Fair Labor Association (FLA) also agreed to publicly-reported, independent labour inspections of a proportion of their supplier factories. By 2002 Nike had also committed to spend US$7.8 million over five years on the Global Alliance, just one of several company initiatives focused on labour issues (Moran 2002, p. 95). What is less clear is whether this commitment of human and financial resources is adequate to ensure that workers' rights are respected; whether it is being spent in a manner which will achieve that goal; and whether the anti-sweatshop movement can maintain its momentum and target its energy in such a way as to persuade Nike and other TNCs to respect those rights over the long term. These questions are considered in detail in Chapters 5, 6 and 7.

Chapter 5

Labour codes of conduct in the sportswear industry: from "I don't know that I need to know" to "a new paradigm of people, planet, profit"?

> They are our subcontractors. It's not within our scope to investigate...I don't know that I need to know.
>
> *John Woodman, Nike's general manager in Indonesia, responding to a question about labour conditions in Nike's supplier factories (Far Eastern Economic Review 1991)*

> I wish we could build some level of understanding and trust that we are all working toward a similar goal. You have to admit we have the harder job. It's easy to criticise, it's a lot harder to deal with all the realities of running a business and transforming it to a new paradigm of people, planet, profit.
>
> *Personal communication (e-mail) from Maria Eitel, Nike's director of labour practices, 22 Feb. 2000*[154]

Up until April 2000 Philip Knight, Nike's founder and CEO, had enjoyed a close relationship with his alma mater, the University of Oregon. Knight had donated more than US$50 million to the university, and was expected to give a further US$30 million toward expanding the campus sports stadium. In April 2000 Knight learned the university had joined the Workers' Rights Consortium (WRC), an organisation established by student activists to investigate labour conditions in the production of university-branded apparel. Nike was one of the companies licensed to produce collegiate apparel, and Knight was wary of the WRC's growing influence. He announced "the bonds of trust, which allowed me to give at a high level, have been shredded" and promised he would make "no further donations of any kind" to the University. He criticised the WRC as a misguided attempt "to bring apparel jobs back to the US" and praised instead the Fair Labor Association (FLA), another labour rights initiative established by a coalition of corporations—including Nike—and human

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[154] Eitel sent me this e-mail (copy held on file) in my capacity as a campaigner for Community Aid Abroad (CAA). The e-mail formed part of a dialogue with her regarding Nike's labour practices and with her agreement this dialogue was published on CAA's web site.

rights, labour rights and consumer groups.[155] In the same month Nike cancelled planned sponsorships with Brown University and the University of Michigan, two other campuses which had joined the WRC. Nike's actions were condemned by the student activists who supported the WRC, publicly criticised by the non-government organisations (NGOs) involved in the FLA (ILRF 2000) and sparked vigorous debate in the press (see for example *Financial Times* 2000; *The New York Times* 2000a; *The Oregonian* 2000; *Time Magazine* 2000). The University of Oregon subsequently withdrew from the WRC; Knight reversed his decision to stop making donations; the expansion of the sports stadium went ahead; and the university issued a press release welcoming Knight's "selfless commitment to the university and the people of Oregon" (University of Oregon 2001). As of June 2007, 172 universities and colleges in the US have joined the WRC, and 204 have become members of the FLA: Brown University is affiliated to both initiatives and the universities of Oregon and Michigan are affiliated to neither (WRC 2007; FLA 2007b).

The ongoing debate on US university campuses about the relative merits of the FLA and the WRC illustrates the intensity of wider public discussion regarding labour practice codes of conduct. I noted in Chapter 2 that Munck (2002) and Haworth (2003) believe the international trade union movement should seek to promote transnational governance of labour rights; I also noted that Haworth (2003) interprets the increasing tendency for TNCs to participate in voluntary systems of labour regulation as a positive step toward achieving this goal. As discussed later in this chapter, the United Nations' (UN) Special Representative for Business and Human Rights, John Ruggie, has recently lent high-profile support to this perspective. Of course, this positive estimation of voluntary systems of corporate regulation is far from universally accepted: numerous scholars and public interest groups regard such systems, not as steps towards achieving effective global governance, but rather as attempts to avoid it. This chapter first gives a brief history of the FLA, and then sketches how different theoretical understandings of corporations and regulation influence how voluntary labour rights initiatives are understood. It then considers the development of the FLA's regulatory system—and its

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[155] These quotes are taken from Knight's statement on Nike's web site (Nike 2000b).

implementation in the supply networks of Nike and Adidas/Reebok[156]—in order to assess its potential contribution to advancing global governance of trade union rights. In making this assessment I use Fairclough's concept of "orders of discourse", introduced in Chapter 1, as a tool to interpret how labour rights are being incorporated into the mixture of discourses which help to reproduce these corporations.

From AIP to FLA, a brief history of a multi-stakeholder initiative

> In this industry, the only reason to change is because someone has got a great cattle prod that keeps jabbing you in the rear end. That was Robert Reich.
>
> *Bud Konheim, President of US apparel firm Nicole Miller Ltd[157]*

In 1996 US Secretary of Labor Robert Reich convinced Nike, Reebok and 10 other US apparel and footwear companies to join with human rights, religious, consumer and labour organisations to agree on a set of labour standards and a process for monitoring respect for those standards in the companies' supply networks (*The Corporate Examiner* 1997, pp. 5-6). In April 1997, after eight months of contentious negotiations, the White House Apparel Industry Partnership (AIP) announced its "Workplace Code of Conduct". Controversially, the code did not include a living wage provision, but its standards did include workers' rights to freedom of association (FOA) and collective bargaining. At this stage the code only included "Principles of Monitoring"; the details were to be worked out during a six-month transition period (*The Corporate Examiner* 1997). This time-frame proved optimistic. I interviewed many of the company, trade union and NGO negotiators in September and October 1998, more than two years after the AIP discussions began. At that stage the monitoring process still had not been finalised. The content of the negotiations was confidential, but from interviewees' responses it was clear the civil society organisations could not agree on what compromises could be made with the companies in order to get a monitoring system established.

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[156] Adidas purchased Reebok early in 2006 and Adidas has merged the two companies' labour rights programs. In this chapter and Chapter 6 I consider Reebok's labour rights program before it was purchased by Adidas, as well as Adidas' labour rights program both before and after the purchase.
[157] Cited in IRRC (1998, p. 11). Nicole Miller Ltd. joined the FLA in the late 1990s, but has since left the organisation.

In November 1998, a sub-group of the AIP comprising four of the companies and four of the NGOs announced they had negotiated a preliminary agreement. The NGOs were the International Labor Rights Fund (ILRF), the Lawyers' Committee for Human Rights (LCHR), the Robert F. Kennedy Memorial Centre for Human Rights and the National Consumers League; the companies were Nike, Reebok, Liz Claiborne and Philips Van Heusen. These groups formed a new organisation, the Fair Labour Association (FLA). The other members of the AIP—including the Interfaith Center for Corporate Responsibility, the AFL-CIO, UNITE and the Retail Wholesale and Department Store Union—did not agree with the proposed monitoring system and declined to join the FLA.

In the years since its establishment the FLA has had some success in recruiting more companies, but has struggled to establish credibility with labour activists. In addition to the 204 universities and colleges already mentioned, as of June 2007 20 TNCs are participating in the FLA's monitoring program. Sportswear companies are well represented. Adidas joined in 1999, followed by Puma, Asics, Umbro, Gear for Sports, Gildan Activewear, Nordstrom and Patagonia. This growth has occurred despite strong criticism from labour groups. In the years immediately following the FLA's formation, UNITE condemned it for failing to require a living wage and called its monitoring program "badly flawed" (*The New York Times* 1998b); Campaign for Labor Rights called on the NGOs involved in the FLA to abandon it (CLR 1999); and the activist group Corporate Watch turned its "greenwash"[158] award into a "sweatwash" award and bestowed it on the FLA.

Possibly in response to this public pressure, in December 2001 the FLA promoted a staff member with strong activist credentials, Auret van Heerden,[159] to the position of executive director. Four months later, in April 2002, the FLA board approved reforms

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[158] "Greenwashing" refers to attempts by corporations to create the illusion of being environmentally progressive while actually operating in a manner which damages the environment.
[159] Van Heerden's personal history is recorded on the FLA (2007c) web site. In the 1970s he was president of the National Union of South African Students and provided research and training services to trade unions and civil society groups. Subsequently he worked on labour rights issues for the International Labour Organisation (ILO) for more than 10 years.

which significantly strengthened the independence and transparency of the FLA's monitoring program. These reforms, which I consider later in this chapter, went some way to increasing the FLA's credibility with some anti-sweatshop groups, including the Clean Clothes Campaign (CCC) [160] in Europe and the Maquila Solidarity Network (MSN) in Canada.[161] In contrast, some other anti-sweatshop groups have remained staunch critics of the FLA; in March 2006 USAS launched a web site called "FLA Watch" which describes the FLA as "nothing more than a public relations mouthpiece for the apparel industry" (see also USAS 2002). The Asia Monitor Resource Centre (AMRC), a regional labour rights network based in Hong Kong, has remained similarly critical, describing the FLA as "industry heavy" and "serving as no more than a public relations cover up for garment industry giants" (AMRC 2004, p. 6).

These differing activist perspectives on the FLA are linked to wider debates regarding cooperation between TNCs and civil society organisations. USAS (2006) believes companies should have no involvement in the decision-making structures of organisations established to regulate them. USAS (2006) notes the WRC's board and other governance structures have no corporate representatives, and argues this makes the WRC significantly more credible than the FLA. In contrast, CCC is not opposed to corporate representation in the governing structures of non-state regulatory organisations. Instead, CCC makes a distinction between industry-controlled processes and multi-stakeholder initiatives. To qualify as a multi-stakeholder initiative, the CCC (2007a) believes a non-state regulatory organisation needs to make sure the civil society organisations represented in the organisations governing structures are genuinely independent of companies and have equal decision-making authority with company representatives. CCC (2006; 2007) and MSN (2002, pp.1-5; 2004, p. 5) consider a number of labour code initiatives to be industry-controlled, including Worldwide Responsible Apparel Production, the Business Social Compliance Initiative, and the Global Social Compliance Program. While critical of the FLA, the MSN and CCC regard it as a multi-stakeholder initiative (CCC 2004a; MSN 2003, p. 7).

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[160] Personal communication (e-mail) from Ineke Zeldenrust of the European Secretariat of the CCC, 22 June 2004 (copy held on file).
[161] MSN described the reforms as a "step in the right direction" (MSN 2002, p. 7).

Despite some of the more extravagant claims about the extent to which corporate responsibility has been embraced by the global business community, only a very small proportion of the world's 65 000 TNCs participate in multi-stakeholder initiatives (Utting 2005). Most TNCs with labour codes of conduct either arrange their own code implementation programs or else are involved in code implementation initiatives which are controlled by industry bodies, with civil society organisations playing only a marginal role, if they are involved at all (Utting 2005). In addition to the FLA, the two largest multi-stakeholder initiatives with a significant presence in the global apparel industry are the SA8000 factory labour rights certification scheme and the Ethical Trading Initiative (ETI). SA8000 is administered by Social Accountability International (SAI) and as of May 2007 that organisation's web site listed 200 apparel factories as being SA8000-certified, most of them based in Asia. The ETI is based in the UK and its members include trade union organisations; aid and development organisations; and UK retailers. Rather than monitoring whether factories are complying with labour standards, the ETI seeks to facilitate dialogue and learning between TNCs and civil society organisations regarding how best to implement the ETI's labour code.

Theoretical perspectives on voluntary corporate regulation

The different ways labour activists assess the value of corporate codes of conduct intersect with scholarly approaches to regulation. Morgan and Yeung (2007, pp. 16-79) divide regulatory theories into three broad categories: public interest theories, private interest theories and institutionalist theories. Public interest theories hold that states must intervene in markets to prevent the 'market failures' which would result from leaving companies to their own devices; with the potential dangers including anti-competitive behaviour; unequal distribution of information; and negative externalities such as pollution. Public interest theories are based on the essentialist understanding of the firm discussed in Chapter 1: they understand companies to be unitary entities geared only toward maximising economic accumulation. Public interest theorists argue this amoral drive to increase profits makes it inappropriate for corporations to have any influence over regulatory processes (Hancher & Moran, quoted in Morgan & Yeung 2007, p. 61). Public interest theorists are therefore cynical about voluntary codes of conduct, arguing they serve only to conceal and legitimise exploitative and anti-social

practices and assist corporations to undermine campaigns for legally-binding state-sanctioned regulation (see for example Jones 1996; Liubicic 1998, p. 138; Lipschutz 2004, p. 197, 2005; Owen et. al. 2000; Power 1994, p. 305).

Private interest theories of regulation also accept the essentialist account of corporations discussed in Chapter 1. But whereas public interest theories focus on the need for the state to correct market failures, private interest theories focus on regulatory failure. Private interest theorists argue government regulators tend be "captured" by particular interest groups, leading the regulators to interpret and apply regulations in a manner which benefits those interest groups at the expense of the wider community. Economists within the neo-classical tradition use private interest theories to build their case for strict limits on state intervention in markets (Morgan & Yeung 2007, pp. 43-52, 76). Such economists also tend to criticise voluntary codes. Henderson (2001), for example, argues cooperating with civil society organisations to implement voluntary regulations will unnecessarily increase TNCs' costs, impair their economic performance, reduce economic growth and limit employment opportunities for the poor. A number of US academic economists have made similar arguments in the context of debates regarding whether US universities should join the FLA or the WRC (see *The Chronicle* 2001; *The Nation* 2001a).

As discussed in Chapter 1, a number of economic geographers reject the dominant, essentialist portrayal of the corporation and attempt to displace it with decentred perspectives. The regulatory theorists which Morgan and Yeung broadly categorise as "institutionalist" similarly reject essentialist accounts, both of corporations themselves and of corporate relationships with states. These institutionalist regulatory theorists decentre accounts of regulation by demonstrating that the state's role in regulatory processes is supplemented by other mechanisms and actors (Morgan and Yeung 2007, pp. 76, 310). Hancher and Moran, for example, emphasise how legal cultures and traditions shape the way regulatory processes are implemented (extracted in Morgan & Yeung 2007, pp. 60-8).

Hancher and Moran also argue the size, administrative complexity and public influence of large firms means that states cannot simply impose their regulatory will; states have to persuade large firms to cooperate (extracted in Morgan & Yeung 2007, p. 62). The difficulties associated with achieving this kind of cooperation are emphasised by the systems theorist Gunther Teubner. Systems theory holds that a corporation will only cooperate in a regulatory process if the corporation "can translate [the regulatory process'] meaning into terms that make sense within the internal logic of [the company's] own system" (Morgan & Yeung 2007, p. 69). If this translation is not achieved then corporations will either avoid regulation or else comply in a way which is consistent with the corporation's internal logic but contrary to the regulators' intention. Company managers with sexist attitudes regarding the abilities of female employees might, for example, respond to equal pay legislation by employing fewer women.

Institutionalist regulatory theorists suggest a variety of strategies for effectively enlisting the cooperation of corporations in regulatory processes. In his work on international tax law, Picciotto (2007) argues legal rules need to articulate and build on values and principles which are "widely accepted as fair", including within TNCs. Ayres and Braithewaite (1992) advocate a more radical approach, suggesting a range of creative regulatory options which seek both to enlist corporate cooperation in regulatory processes and ensure that representatives of the public interest play a role in influencing internal decision-making within corporations. Their proposal for "enforced self-regulation" involves a government requiring:

> …each company to write a set of rules tailored to the unique set of contingencies facing that firm. A regulatory agency would either approve these rules or send them back for revision if they were insufficiently stringent…[public interest groups or PIGS] would be encouraged to comment on the proposed rules…most enforcement duties and costs would be internalised by the company, which would be required to establish its own independent inspectorial group…PIGS would be represented on this inspection group (e.g. the union on the workplace occupational health and safety group)…Violations of the privately written and publicly ratified rules would be punishable by law. (Extracted in Morgan & Yeung 2007, pp. 106-9)

A key feature of Ayres and Braithwaite's proposals is that law is used to give PIGs a role in influencing how regulatory standards are negotiated, monitored and enforced within corporations; in their own words their approach involves "unlocking to PIGs the smoke-filled rooms where the real business of regulation is transacted" (quoted in Morgan & Yeung 2007, p. 57).

Teubner and other systems theorists are also interested in how law can heighten the influence of particular interest groups on the conversations which determine corporate behaviour. A commonly cited example is the Co-determination Act of 1976 which requires German companies with more than 500 employees to include elected worker representatives on their supervisory boards.[162] Research indicates the introduction of the Act resulted in worker's interests coming to be regarded as legitimate internal corporate goals rather than external costs to be minimised. Companies affected by the Act have, for example, become more reluctant to sack workers and instead look to create alternative jobs by opening up new areas of production (Teubner 1986, p. 265; Gordon & Rai 1990; Granero 2006).

Although neither Teubner nor Ayres and Braithewaite use the term "discourse", the regulatory approaches they advocate can be interpreted in light of Fairclough's concept of orders of discourse, discussed in Chapter 1. Fairclough (2005) argues that within organisations discourses co-exist which represent "potentially conflicting alternatives, whose relations are defined in terms of dominance, resistance, marginalisation, innovation…" Both the Co-determination Act in Germany and Ayres and Braithewaite's proposal of "enforced self-regulation" use law to enhance the ability of representatives of particular interest groups to influence the internal conversations which frame the moral appropriateness of the various strategies open to companies. Of course, in these discursive battles, representatives of particular interest groups are also prone to being captured and having their ideas and thoughts shaped by dominant

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[162] The percentage of worker representatives required to be on the board varies with the industry, but for many it is 50 per cent. Two-thirds of the worker representatives are elected by the employees directly, the other third are proposed by the industry union but must also be endorsed by the employees (Kübler 1986).

corporate discourses. In order to counter this possibility Ayres and Braithwaite advocate establishing:

> …a regulatory culture where information on regulatory deals is freely available to all individual members of a multitude of PIGs. Also required is a vital democracy where PIG politicians are always vulnerable to accusations of capture by competing PIG political aspirants who stand ready to replace them. (Extracted in Morgan & Yeung 2007, pp. 54-9)

In the case of the Co-determination Act in Germany the fact that worker representatives are democratically elected seems to help prevent capture; research into co-determination in Sweden suggests that when accountability to workers is less direct, labour representatives on company boards are more prone to being persuaded by the priorities and logics of other board members (Wedderburn 1986, pp. 16, 39).

Unlike public interest theorists, institutionalist regulatory theorists are less likely to immediately reject voluntary corporate initiatives as a distortion or pollution of state-sanctioned regulation. Instead they are interested in the extent to which voluntary initiatives are genuinely influencing the discourses which shape corporate behaviour, and in possibilities for complementary or positive interaction between voluntary and state-sanctioned approaches.[163] In an unpublished conference paper Picciotto (2006, p. 12) for example argues:

> the implementation in practice [of non-binding codes] could be rigorous (though often has not been), and could involve adoption or transformation of the soft law norms into hard law…the sharp distinction between voluntary codes and binding law is inaccurate: codes entail a degree of formalisation of normative expectations and practices, and may be linked to formal law, both public and private, in various complex ways…

Picciotto (2006, p. 12) cites the way the Baby-Milk Marketing Code—which was adopted as a Recommendation by the World Health Organisation in 1981—has been

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[163] Ayres and Braithwaite's proposal for "enforced self-regulation" is an obvious example.

Table 5.1
Theoretical perspectives on voluntary corporate regulation of labour rights

Broader political/ economic theories	Regulatory Theories (as categorised by Morgan & Yeung 2007)	Portrayal of the firm	Primary function of state regulation of corporate activity	Primary function of voluntary corporate regulation	When will voluntary corporate self-regulation help protect workers' rights
Elements of the social democratic tradition (especially in the US)	Public Interest Theories.	Essentialist: Unitary organisations seeking economic accumulation.	Protect the public interest by minimising the negative impacts which result when corporations are not regulated.	Legitimation of corporate practices/ attempts to avoid state regulation.	Never.
Neo-classical approaches to economics	Private Interest Theories.	Essentialist: Unitary organisations seeking economic accumulation	Beyond providing a legal framework for contracts, state intervention in the market should be minimal. Regulatory bodies have a tendency to be "captured" by vested interests.	Misguided interference with market mechanisms	May assist workers in some workplaces but will reduce overall economic growth and increase unemployment.
Decentred corporation (several theoretical traditions, including network theory, discourse analysis and other post-structuralist perspectives on the firm).	Decentred/ Institutional-ist theories	Decentred: Complex organisations driven by competing discourses and aspirations.	States, corporations, workers, public interest groups and other institutions participate in complex networks of relationships. The design of state regulation influences how these different organisations interact, and how those interactions are incorporated into the discourses which guide corporate practice.	Variable within and between firms. May play a role in establishing discourses which facilitate the introduction of state-sanctioned regulation.	When it helps to powerfully insert discourses promoting workers' rights into the debates, power plays and resulting regularised processes which reproduce corporate behaviour.

used as a basis for national legislation in a number of countries. Similarly, many German companies already voluntarily included worker representatives on their boards before the 1976 Co-determination Act was introduced and it is likely this helped reduce corporate opposition to the Act. No such voluntary tradition existed among corporations in the UK and when the 1977 Bullock Report recommended adopting co-determination

it was greeted with a huge outcry from the UK business sector and a call to "fight Bullock at the barricades" (Wedderburn 1986, p. 37).

In the context of current debates about voluntary corporate codes, the influence of institutionalist approaches can be seen in the thinking of two UN representatives: Peter Utting, deputy director of the UN Research Institute for Social Development (UNRISD) and John Ruggie, UN Special Representative for Business and Human Rights. In a UNRISD (2005, pp. 8-13) paper, Utting considers the possibility that voluntary initiatives might pave the way for state-enforced regulation. Ruggie was appointed after the UN Human Rights Councils' "Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises" was greeted by strong opposition from most global business groups and little enthusiasm from governments (Kinley, Nolan & Zerial 2007). In his second interim report to the UN General Assembly Ruggie (2007) comments that "soft law approaches" involving "multi-stakeholder hybrids…show some potential, despite obvious weaknesses". He expresses the view that, historically, once voluntary initiatives reach "a tipping point…societies somehow manage to mitigate if not eliminate" the problems the voluntary initiatives are designed to address. He therefore suggests "states need to more proactively structure business incentives and disincentives" to encourage more businesses to participate in multi-stakeholder initiatives so they become "truly systemic interventions".

Ruggie wrote the preface to the FLA's 2006 annual report, and his text makes it clear he regards the FLA as one of the multi-stakeholder hybrids which has the potential to be scaled up in this manner. In this chapter I'm interested in whether Ruggie's relatively optimistic assessment of the FLA and other multi-stakeholder initiatives is borne out by closer scrutiny. If such initiatives are to be part of a process of cultural change within the global business community which paves the way for effective state-sanctioned global governance of labour rights, then presumably they must first effectively protect those rights within the supply networks of participating companies. Following Fairclough (1991; 1995; 2005), I'm interested in how the voluntary regulatory processes established in response to the anti-sweatshop movement have affected the discursive position of trade union rights in the orders of discourse operating

within participating companies and their suppliers. As discussed in Chapter 2, the dominant business model within the global apparel influence reflects a dominant neo-liberal discourse which represents accumulation as a firm's overriding motivation and responsibility. As the John Woodman quotation which opens this chapter demonstrates, at least in the early 1990s, Nike representatives tended not to articulate any sense of responsibility regarding labour conditions in their suppliers' factories. Anti-sweatshop campaigners have promoted an alternative, rights-based discourse, challenging TNCs and their suppliers to ensure respect for workers' rights, including trade union rights, irrespective of whether doing so increases company profits. As Nike's Maria Eitel points out in the other quotation which opens this chapter, it is not easy to shift a company to a new paradigm which puts the rights of "people" on an equal footing with "profit".

In the remaining sections of this chapter I consider how operations within Nike, Reebok, Adidas and other companies have participated in and been affected by this clash of discourses. I describe the processes which the FLA, Nike, Reebok and Adidas have established to protect trade union rights in these companies' production networks and I summarise the available research evidence regarding the impact of these processes. Finally I'll consider how trade union rights are positioned in internal texts and conversations which describe these companies' labour practices.

The FLA's regulatory processes

Morgan and Yeung (2007, p. 3) note most regulatory theorists accept that regulation involves at least three elements: a process of standard-setting; a process of information-gathering or monitoring; and a process of behaviour modification. I use these categories to structure my discussion of the way in which the FLA's regulatory system influences respect for trade union rights.

Standards regarding trade union rights

Representatives of the international trade union movement have often expressed concern that corporate codes of conduct might undermine the labour standards negotiated through the ILO (see for example ICFTU 2000). The FLA's commitment to

the right to FOA has at times been called into question. In an article in *Environment and Planning A,* Johns and Vural (2000, p. 1207) portray the differences between those civil society organisations which left the AIP in 1998 and those which stayed and helped to form the FLA as a clash between trade unions committed to trade union rights and consumer groups committed to independent monitoring of factory conditions.

My research suggests Johns and Vural misrepresented the goals of the NGOs participating in the FLA. In October 1998 I interviewed representatives of each of the four civil society organisations who, one month later, helped found the FLA. As of June 2007 the four I interviewed—Jim Silk of the Robert F. Kennedy Memorial Center for Human Rights, Linda Golodner of NCL, Mike Posner of LCHR and Pharis Harvey of ILRF—continue to serve on the FLA's board of directors, although for Harvey and Silk the capacities in which they sit on the board have changed.[164] Nothing in these interviews suggested NCL, the only consumer group among the four, was seeking to persuade the other three groups to prioritise factory monitoring over FOA. Instead, all four expressed their intention to see the AIP commitment to FOA and collective bargaining interpreted in light of ILO jurisprudence.[165] The FLA (2006a, pp. 18-21) has since developed a set of compliance benchmarks which, at least on paper, achieve this goal. At least one anti-sweatshop coalition, CCC, has welcomed the benchmarks as a positive example of a code of conduct instrument which upholds the ILO's understanding of FOA and collective bargaining (CCC 2005a, p. 39).

In our 1998 interview Harvey also expressed the view that an organised workforce is the most effective way of preventing sweatshop conditions.[166] The AIP negotiations

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[164] Harvey has retired as Director of ILRF and sits on the board of the FLA in his personal capacity; on Harvey's retirement, the ILRF withdrew from the FLA. Silk is now Clinical Professor of Law and Executive Director of the Orville H. Schell, Jr. Center for International Human Rights at Yale Law School, and also sits on the FLA board in his personal capacity. The Lawyers' Committee for Human Rights has changed its name to Human Rights First, but Posner continues to represent the organisation on the FLA board.

[165] Interview with Pharis Harvey and Bama Athreya, Washington DC, US, 1 Oct. 1998; Interview with Linda Golodner, Washington DC, US, 2 Oct. 1998; Interview with Jim Silk, Washington DC, US, 6 Oct. 1998; Interview with Michael Posner, New York, US, 9 Oct. 1998 (audio-tapes of all four interviews are held on file).

[166] Interview with Pharis Harvey and Bama Athreya, Washington DC, US, 1 Oct. 1998 (audio-tape held on file).

were confidential so he could not speak directly about them, but he said that in general in the ILRF's discussions of labour codes with companies:

> We've always said a trade union is the best monitor. It drives some of the companies into apoplexy when we say that (laughs)…effective monitoring will strengthen workers' ability to voice their concerns and will help to provide a context in which they can develop collective bargaining strength. If it doesn't provide that, then its not appropriate monitoring...I know a lot of unions are concerned that independent monitoring might, in a sense, replace the role of trade unions. If it functions in that way then it's a distortion of the goal of monitoring, which is, in a sense, to safeguard the necessary context for workers to organise and develop their associations.

Harvey's emphasis on workers' freedom to organise is similar to the perspectives of UNITE staff cited by Johns and Vural (2000, p. 1207). To the extent that the split in November 1998 resulted from differences over FOA, they were differences over what compromises with companies were acceptable in order to get a monitoring program established, not a result of the groups who stayed not being committed to trade union rights. At the time of the split, UNITE President Jay Mazur issued a statement explaining his union's concerns with the agreement which led to the establishment of the FLA:

> …it does not effectively address the problem of protecting the right to organise in countries where that right is systematically denied; it allows companies to pick the factories that will be inspected by monitors chosen and paid by the company and excludes up to 95 per cent of a company's production facilities from inspection.[167] (Quoted in Johns & Vural 2000, p. 1207)

The issue of what to do in countries which fail to give legal force to the right to organise was one where UNITE and the NGOs who stayed in the FLA took different positions, but not necessarily because the latter were not interested in promoting

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[167] As noted above, UNITE also criticised the FLA for failing to make meaningful progress toward implementing a living wage. I have left this out of this quote because my focus is on the issue of trade union rights.

freedom of association. I interviewed Ann Hoffman, one of UNITE's representatives in the AIP negotiations, in 1998[168] and her position was clear:

> The companies should say to the workers - 'The government says you don't have the right [to organise a union], as far as we are concerned you do…if you want to elect representatives we'll meet with them.' If the state takes action [against the union], the company should refuse to cooperate and should protest, publicly and loudly…If all else fails the company should get out of there. A company gets certified or not certified on the basis of meeting the code. If you're operating in a country where it's impossible to meet the code, you should get out of there.

Harvey's position was similar,[169] but lacked the element of leaving the country:

> Companies ought to at least do two things. They ought to allow, within the space of the workplace, for workers to have the space and the time to associate, and discuss and negotiate terms of their work with their employer, whether or not they have formed a legal union, and second they ought not to cooperate with the authorities, or take any initiative to suppress that right. That is, they ought not to call the police, and they ought to resist, to the extent that they can, if the police believe that a workers' meeting is illegal. I think that's the best you can ask for…and if we can get companies to comply with that, we'll have helped to create the space that will eventually lead to freedom of association. I'd rather do that, than say, well, you've just got to leave that country.

The FLA charter document reflects the position outlined by Harvey. It acknowledges that in some countries implementing the AIP code is "problematic" but it maintains that companies still have an obligation of "taking steps to ensure that employees have the ability to exercise these rights without fear of discrimination or punishment." It specifies that participating companies should contract with factory owners "that understand and recognise these rights and who shall not affirmatively seek the assistance of state authorities to prevent workers from exercising these rights" (FLA, 2007). The FLA provides companies with guidelines to address issues specific to

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[168] Interview with Ann Hoffman, UNITE, Washington DC, US, 2 Oct. 1998 (audio-tape held on file).
[169] Interview with Pharis Harvey and Bama Athreya, ILRF, Washington DC, US, 1 Oct. 1998 (audio-tape held on file).

particular countries, but these guidelines are not publicly available. Depending on the nature of these guidelines and how they are implemented, it is possible that through this process the FLA could, in Harvey's words, help to "create the space that will eventually lead to freedom of association" in countries where that right is not available. However, as things currently stand, it is far easier for workers to organise independent unions in countries in which that is legally possible. The FLA's efforts to improve respect for FOA would therefore be more credible if the FLA at least prevented participating companies from moving more of their production into countries which restrict this right. As noted in Chapter 2, since Nike joined the FLA the proportion of its sport shoe production located in countries which restrict FOA has increased from 48 to 64 per cent.

Before turning to the issue of monitoring it should be noted the FLA's standards regarding trade union rights are limited to the ILO conventions and related ILO jurisprudence. One of the major barriers to the establishment of trade unions in the garment industry in developing countries has been lack of security of employment, an issue which is not directly addressed by an ILO convention.[170] As noted in Chapter 2, a considerable proportion of garment production occurs through informal or short-term work arrangements: women producing clothes from home are, for example, commonly regarded by law to be independent contractors, if there is a legal contract governing their work at all. My research in Indonesia indicates many apparel factory and footwear factory managers have opted to manage variations in demand by increasing the proportion of their workers who are employed on short-term, seasonal contracts. A number of Indonesian apparel factories have closed down, retrenched all workers employed on open-ended contracts and then re-opened with all workers employed on short-term contracts. Trade union leaders in Indonesia report it is extremely difficult to recruit workers employed on short-term contracts because those workers fear their contract will not be renewed if their employer learns they have joined the union. Oxfam Australia has lobbied sports brands to adopt a policy limiting the circumstances in which their suppliers can employ workers on short-term contracts. Reebok decided to

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[170] Although the ILO conferences in 1997 and 1998 considered adopting a convention on contract labour, the proposal was ultimately rejected (see ILO 2005).

adopt such a policy late in 2005, shortly before the company was purchased by Adidas, who dropped this requirement. The FLA does not require such a policy of its participating companies. During our 1998 interview Harvey commented, in the context of discussing the living wage issue, that it was difficult to persuade companies to voluntarily commit to principles which had not been endorsed by the ILO or another UN body.[171] This illustrates the important role the ILO and other UN bodies play in lending discursive weight to particular labour standards, but it also presents challenges to activists trying to persuade companies to go beyond ILO standards.

Information-gathering regarding trade union rights

The FLA has two processes for investigating whether trade union rights and other labour standards are being respected: a system of monitoring and a system of grievance procedures.

Monitoring

In order to understand the approach to monitoring applied by the FLA and its member companies, it is useful to first consider the wider context of the development of social auditing as a global industry. In 1992 Nike was one of the first companies to introduce a labour code of conduct. At that stage Nike's code made no mention of FOA and collective bargaining—this was added in 1997 just prior to the announcement of the AIP code—and Nike relied on the suppliers' themselves to send reports every six months detailing whether or not they were meeting each of the code's standards. Even some of Nike's own staff recognised this was not a reliable method for investigating code compliance: Tony Nava of Nike's Indonesian office admitted in 1994 that, "we can't know if they are actually complying with what they put down on paper" (*The Chicago Tribune* 1994). From 1995 Nike employed commercial accounting firms—first Ernst and Young and then, from 1997, PricewaterhouseCoopers (PwC)—to conduct annual labour audits of each supplier factory. While Nike described these audits as "independent monitoring" (Nike 2000a) anti-sweatshop activists argued auditing firms lacked the necessary skills to conduct labour rights audits and lacked

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[171] Interview with Pharis Harvey and Bama Athreya, ILRF, Washington DC, US, 1 Oct. 1998 (audio-tape held on file).

independence, since Nike was selecting and paying them to monitor Nike's code according to a methodology set by Nike.

The credibility of PwC's labour audits was particularly damaged in 2000 when a critical report by US academic Dara O'Rourke was covered in *The New York Times* (2000b). O'Rourke, then an assistant professor at Massachusetts Institute of Technology (MIT), had been given permission by PwC to observe their labour auditors at work in two factories, one in Korea and the other in China. The auditors observed by O'Rourke failed to identify numerous code violations, including barriers to FOA and collective bargaining; violations of wage and overtime laws; timecards which appeared to have been falsified; and serious health and safety problems, including hazardous chemical use (MIT 2000, pp. 11-13). O'Rourke concluded:

> The significant and seemingly systematic biases in PwC's methodologies call into question the company's very ability to conduct monitoring that is truly independent. (MIT 2000)

Nike's approach to auditing has changed significantly since then and PwC and Ernst and Young no longer conduct labour audits, but the model of companies employing commercial firms to investigate factory conditions has nonetheless become the dominant model for the implementation of corporate labour codes (CCC 2005b). In some cases, where those audits are conducted as part of a multi-stakeholder program such as SA8000, the auditors must be accredited by the multi-stakeholder initiative before they can be selected by a company to do the auditing. In most cases companies are not involved in multi-stakeholder initiatives and are free to employ whichever auditors they choose. Although financial auditing firms have dropped out of the social auditing field, they have been replaced by quality control firms, including the biggest three firms involved in the business of testing, inspecting and standards certification: Intertek, Societé Générale de Surveillance and Bureau Veritas. A number of companies have also been established specifically for the purpose of auditing labour codes of conduct. These include Cal-Safety Compliance Corporation, which conducts over 11 000 factory inspections each year, and Global Social Compliance, a company which

was started in 2001 by two former partners of PwC (CCC 2005b, pp. 56-7). Most firms involved in this work do not publicly report on their operations, but based on the available evidence CCC estimates between 20 000 and 30 000 garment factories are investigated by commercial social auditors each year (CCC 2005b, pp. 58-9).

Since the social auditing industry emerged in the mid-1990s, labour activists, trade unions and some academics have consistently criticised the quality of factory investigations conducted by commercial firms. Esbenshade (2004a)[172] reviewed more than 60 reports, articles and commentaries on the monitoring of labour codes— including her own field research—and found:

> …an overwhelming consensus on the superficiality of code implementation, the lack of worker knowledge of codes and participation in code implementation, the failure to protect rights to freely associate and bargain collectively, and the deficiencies in the process and outcome of private commercial monitoring.

Critical assessments of the work of commercial labour auditors frequently focus on poor investigation of FOA. In 2005 the Geneva-based Fondation des Droits de l'Homme au Travail (FDHT) commissioned two experienced auditors to shadow 19 audit teams from commercial firms, NGOs and company compliance departments in 14 countries. Its report indicated the majority of auditors observed did not have any knowledge of the core ILO conventions, including those relating to trade union rights, and did not believe such knowledge was necessary for their work (FDHT 2005). In the same year CCC released a report on social auditing based on focus group and interview research with 670 workers from 40 apparel factories in Bangladesh, China, Kenya, India, Indonesia, Morocco, Pakistan and Romania. The workers interviewed complained of brief, superficial inspections in which auditors are "always in a hurry" and claimed that when auditors do interview workers they fail to take adequate steps to protect workers' confidentiality. Workers described how factory managers deceive social auditors by hiding sub-contracting, coaching workers on how to answer interview questions, and

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[172] I accessed this journal article via the electronic database, *Expanded Academic ASAP*. The article's PDF file was corrupted, and I was only able to read the article in HTML. I therefore can't provide the page number for this quotation.

warning workers they will lose their jobs if the auditor makes a negative report. The CCC report acknowledged social auditing was leading to progress in reducing child labour and forced labour and in improving health and safety, but found no evidence of social auditing reducing discrimination, abusive treatment or excessive overtime and no evidence it was improving wages or respect for trade union rights (CCC 2005b). Similar findings emerged from a three-year evaluation of the ETI conducted by the Institute of Development Studies at the University of Sussex (IDS 2006). Based on 400 worker interviews in 6 countries, the Institute reported factory auditing was only generating significant improvements with regard to issues which could be investigated by auditors on a one-day or half-day visit; more complex or 'nonvisual' issues such as FOA and discrimination were not being properly investigated (IDS 2006, p. 53)

Interestingly, some TNCs participating in the ETI agree with this negative assessment of the current standard of commercial auditing. In November 2006 a number of ETI members, including the companies Debenhams, Marks and Spencer, Asda, Tesco and Next, met to discuss "the growing crisis in ethical trade auditing" (ETI 2006, p. 3). The official ETI report of that meeting states:

> …there seemed to be widespread agreement that the auditing practices of commercial auditing companies were…characterised by lack of evidence or proof, failure to identify the real issues, and poor value for money…On the whole, audits still fail to identify breaches of certain aspects of the ETI Base Code, in particular discrimination and violation of trade union rights. (ETI 2006, p. 7)

The report identifies a number of reasons for poor quality social auditing, including the legacy of a "conspiracy of silence between companies and auditors" which is characterised as having "developed in the 1990s when companies didn't actually want to know about the problems" (ETI 2006, p. 10) Comments later in the report suggest the "conspiracy of silence" did not disappear at the end of the 1990s and that many TNCs who employ the services of commercial labour auditors continue to be happy for that auditing to lack rigour:

Some of the corporate ethical trade managers present said they had put considerable effort into negotiating with the auditing companies to improve the quality of their audits, eg, asking them to include worker interviews in all audits. However, most had found that the auditing companies were unwilling to change their practices, for example insisting that all their other clients were happy with their services and no-one else was complaining. (ETI 2006, p. 10)

Like the CCC (2005b) report on social auditing, the ETI members' meeting report highlights the increasing sophistication of social audit fraud by factory suppliers, noting there are a growing number of software packages and training courses available to assist factory managers to pass social audits by deceiving social auditors rather than by improving labour standards (ETI 2006, p. 8). This growth in labour audit fraud and the failure of commercial labour auditors to detect it has also received high profile coverage in the financial press (see *Financial Times* 2005a; 2005b and *BusinessWeek* 2006). These articles suggest a major cause of social audit fraud by suppliers is the inconsistent demands which TNCs make of suppliers: asking that certain labour standards be met while at the same time demanding suppliers produce more cheaply and more quickly while maintaining product quality.

The research evidence regarding the lack of rigour within the commercial social auditing industry has helped persuade some labour rights organisations of the value of TNCs employing in-house staff with responsibility for labour audits and other aspects of code implementation. In a speech at the November 2006 ETI meeting, Neil Kearney, General Secretary of the ITGLWF, described social auditors as "the wart on the face of corporate responsibility", and argued audit teams should be directly employed by the brand or retailer concerned and should be professionally trained and regulated (ITGLWF 2006). In the same month the ITGLWF signed an agreement with apparel firm Gap Inc. involving a "joint program of work" which includes the ITGLWF providing briefings on FOA to Gap labour compliance staff (MSN 2007, p. 6). The CCC (2005b, p. 72) report into social auditing also encouraged companies to employ more in-house compliance staff, arguing that "reliance on third party auditors [means] buyers have less and less connection with their suppliers and their employees". The CCC report also argues local trade unions and labour rights organisations need to be

involved in all aspects of code implementation, including factory auditing, and that these groups should be "better consulted on how best to organise the whole process". The report favourably cites the example of the Fair Wear Foundation (FWF), a Dutch multi-stakeholder initiative which, as standard practice, involves local organisations in training audit teams, advising how the process should be conducted and setting priorities for remediation (CCC 2005b, p. 76).

While it is a relatively recent—and quite remarkable—development for some trade unions and labour rights groups to be calling on companies to employ more in-house labour compliance staff, arguments that effective code implementation requires the involvement of local trade unions and NGOs are not new. CCC has been advocating this since the mid-1990s[173] and several of the union and NGO representatives participating in the AIP who I interviewed in 1998 independently mentioned that CCC's reports and analysis were influential on their own thinking. In my interview with Harvey[174] he made it clear he believed local groups needed to play a central role in monitoring:

> If auditing firms were involved in factory investigations I would want to make certain that they are not just in dialogue with local trade unions and civil society organisations but they are actually accountable to them in some way.

As I discuss later in this section, recent developments at the FLA suggest Harvey is yet to achieve his goal of ensuring local unions and NGOs are centrally involved in the implementation of the FLA's code.

Since 1998, the FLA's approach has been to give participating companies the primary responsibility for monitoring whether or not their suppliers are respecting the FLA's labour standards. The FLA has given itself the role of establishing principles and compliance benchmarks to guide companies' monitoring programs, and the role of verifying whether or not participating companies are implementing these programs

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[173] See for example CCC (1997).
[174] Interview with Pharis Harvey and Bama Athreya, ILRF, Washington DC, US, 1 Oct. 1998 (audio-tape held on file).

effectively. The FLA's primary[175] means of verification is a system which it calls "independent external monitoring" (IEM), a process which involves external monitoring organisations investigating a sample of factories in a participating companies' supply network each year.

The initial FLA model involved participating companies themselves selecting and paying monitors to conduct this external monitoring from a pool of organisations accredited by the FLA. As noted above, UNITE and other unions involved in the AIP negotiations believed this process lacked sufficient independence from the participating companies and it was one of the reasons they refused to join the FLA. One of the changes implemented in April 2002—and welcomed by CCC and MSN—was that the FLA's Executive Director became responsible for deciding which factories would be investigated by external monitors and which external monitors would conduct the investigation. Since 2002 such investigations have involved surprise visits: neither the participating company nor the factory supplier receives prior notice that a factory will be investigated (FLA 2007a). The organisations which the FLA has accredited to operate as independent external monitors include both large for-profit quality assurance firms and smaller non-profit organisations which have grown out of local civil society movements (FLA 2007b). A review of the IEM "tracking charts" available on the FLA's (2007d) web site suggests most IEM investigations are currently conducted by global commercial quality assurance firms, however CCC (2005b, page 51) reports the FLA is shifting the balance "away from global firms to more specialised firms or to non-profit social auditing organisations, albeit at a very slow pace".

The FLA's IEM tracking charts include summaries of the findings of IEM investigations and the steps which participating companies take to address any code violations. Unfortunately the limited nature of the information makes it difficult to draw

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[175] In addition to the independent external monitoring program, the FLA has a third party complaint procedure, a process of annual reports by FLA staff on company progress and a process of accrediting company's labour compliance programs. I reviewed the operation of the annual reports on company progress and the process of accreditation of company compliance programs in a recent Oxfam International report (OI 2006, p. 64). From the information made available by the FLA it is very difficult to get a sense of whether or not these processes involve rigorous assessment by FLA staff of participating company's monitoring of trade union rights. The third party complaint procedure is considered in Chapter 6.

conclusions about the rigour of the IEM investigations, and the tracking charts do not name the factories, making it impossible for researchers to conduct separate independent investigations and compare them with IEM findings. In its 2004 annual report the FLA itself acknowledged its accredited external monitors seemed to be underreporting violations of FOA (FLA 2004, p. 232). The FLA provided further guidance and training to its accredited monitors and predicted this "guidance will lead to improved detection of freedom of association noncompliance" (FLA 2004, p. 232). But the FLA's own data indicates the number of FOA violations identified through the IEM program has not, as yet, increased (table 5.2). In 2005 there were only 49 violations of FOA identified in 99 factories—down from 70 violations in 110 factories in 2003—and more than half of these were "automatic" findings of non-compliance which resulted from the factory being located in China (FLA 2006b, p. 54).[176]

Table 5.2

Violations of FOA identified through the FLA's IEM program, 2003-5

	IEM factory investigations	Violations of FOA identified	Percentage of total code violations reported
2003	110	70	4
2004	94	64	4
2005	99	49	3

Source: FLA (2004, p. 219; 2005, p. 66: 2006b, p. 54)

Based on an analysis of the FLA's 2004 IEM tracking charts, USAS (2005) argues the FLA fails to resolve those violations of FOA which are discovered through the IEM process. USAS (2005) notes the FLA seemed to regard it as acceptable for the relevant participating company to respond to FOA violations simply by providing information and training to workers and management; at that stage the FLA did not investigate whether the problem was actually solved. For example in factory 10025003C, which produced for Nike and Adidas in Mexico, workers reported to GMIES that the factory

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[176] The FLA's 2005 IEM tracking charts records IEM visits to 26 different factories in China, each of which automatically received one non-compliance with FOA.

refused to hire people who have been members of unions. The participating companies responded by training managers in discrimination and by requiring the factory to display a notice in the factory indicating that workers' union membership will not affect hiring. There is no evidence the FLA asked GMIES to interview workers at the factory again to verify whether union members are now free to apply for work at the factory. According to the FLA's tracking charts, Nike and the FLA responded in an almost identical manner to a finding that factory 07003236C in India was also blacklisting trade unionists. In factory 07007671C in Turkey, Nike responded to an IEM finding that "in 2001, management did not support the Trade Union and as a result, some of the workers quit" by investigating whether a "workers' committee" which was subsequently established in the factory was working effectively. There is no indication that either Nike or the FLA sought to investigate whether the departure of trade union members in 2001 was the result of anti-union discrimination by factory management or considered whether those union members might want to return to work at the factory.

I have reviewed the FLA's tracking charts for factories producing for Adidas, Nike and Reebok in 2004, 2005 and 2006. My reading confirms USAS' concerns about the 2004 investigations and indicates many of these issues were still present in 2005 and 2006. Many of the 2005 and 2006 tracking charts still contain no reference at all to FOA. Where FOA violations are found, in most cases training in FOA for workers and managers still seems to be regarded as a sufficient response, without follow-up worker interviews to verify whether or not the training has improved respect for FOA in the factory.[177] Factories located in China are automatically found to be in non-compliance with FOA, but this finding does not appear to have any consequences, either for the participating companies or for their suppliers.[178] Curiously, factories located in Vietnam do not receive automatic findings of non-compliance on FOA, instead the IEM monitors seem to regard it as acceptable for local law and practice regarding trade union rights to

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[177] In the 2005 tracking charts, see for example Adidas and Nike's response to the finding by GMIES that workers in factory 01022223D in El Salvador didn't believe they were free to form a union. In the same charts, see also Reebok and Nike's response to the IEM finding in factory
07022908D in Honduras that "Employees express fear to be involved or associated with a union activity".
[178] In the 2005 tracking charts, see for example factory 07031525D which produces for Nike, Reebok and Adidas; factory 36021552D which produces for Adidas and Puma; factory 01001524D which produces for Adidas; and factory 07001535D which produces for Nike.

be followed.[179] It is not clear why the FLA regards China as less compliant with international labour standards regarding FOA than Vietnam, particularly as the FLA's 2004 (p. 243) report recognises both that Vietnamese workers are not free to form independent trade unions and that the only legal union—the Vietnam General Confederation of Labor—has close relations with the ruling Communist Party.

I did, however, find evidence in the 2005 and 2006 tracking charts which suggests the FLA and its participating companies are starting to take FOA violations more seriously. In 2005, the FLA started a program of "Independent External Verification" (IEV) which involves sending external monitors back to some of the factories which have been involved in IEM investigations in previous years. In several cases, the external monitors' IEV visits call into question the participating companies' claims that FOA issues have been adequately addressed.[180] There are also several cases where participating companies provide information which suggests FOA violations identified through the IEM process have been rectified. In the 2006 tracking chart for factory 360257357E in Pakistan the monitoring organisation T-Group Solutions indicated that two workers were dismissed for reporting grievances to auditors and five union members were dismissed without notice or reason. According to T-Group Solutions the union members were "unlawfully detained in a room by two gun-men and were told to sign their terminal dues documents without which they would not be allowed to go". The participating companies, Nike and Puma report in the tracking chart that they have investigated these incidents and that all seven workers have since been reinstated.[181]

In its 2005 Annual Report the FLA also announced it would be supplementing its IEM program with a new scheme to be called FLA 3.0 which will involve local civil society organisations in the monitoring and remediation process (FLA 2005, p. 22). In an e-mail dated 23 July 2007,[182] Harvey told me FLA 3.0 represents "an effort to improve the role and importance of local NGOs and trade unions" by systematising and concentrating

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[179] In the 2005 tracking charts, see for example factory 01028472D which produces for Adidas and Reebok; and factory 12008464D which produces for Reebok and Puma.

[180] In the 2006 tracking charts, see for example factories 12023286B and 12033280C, which produce for Nike and Reebok in India.

[181] For another example of a case where Nike and Adidas appear to have taken positive steps to support trade union rights, see the 2005 tracking chart for factory 01023369D in Indonesia.

[182] Copy held on file.

their involvement in "helping to define what are the priority issues and means of remediation in a particular industry within a region or country, rather than a single factory". Prior to this new initiative, the FLA required individual participating companies to consult with local trade unions and NGOs regarding code implementation (FLA 2007a). The FLA itself identifies one of the reasons that FLA 3.0 is needed is that:

> …it has been very difficult for companies to engage local stakeholders in a meaningful way. We have yet to effectively include NGOs in the monitoring process... (FLA 2006c).

FLA 3.0 shifts the responsibility for cooperating with local civil society organisations from individual companies to the FLA as a whole. The FLA's 2006 annual report indicates FLA 3.0 is being piloted through two projects, the Sustainable Compliance Project and the Soccer Project (FLA 2006b, p. 1). The Sustainable Compliance Project is working with four factories in China; the Soccer project is working with 12 factories in Thailand and eight in China, with a focus on working hours and grievance procedures (FLA 2006b, pp. 25-6). Nothing in the information which the FLA has so far made available about these projects indicates how they are addressing trade union rights. Two other FLA projects may also give an indication of the potential of FLA 3.0 to improve respect for these rights: the Central America Project and the Joint Initiative on Corporate Accountability and Workers' Rights (JO-IN). The Central America project initially ran from early 2004 until January 2006. It identified discrimination, harassment or abuse, and violations of FOA—including blacklisting of trade union leaders—as major issues in the apparel assembly sector in El Salvador, Guatemala, and Honduras. The FLA developed "Guidelines of Good Practice on Hiring, Termination, Discipline, and Grievance Procedures" and conducted an extensive training program to explain the guidelines to brand representatives, factory managers, free trade zone authorities, trade associations, and Ministries of Labor in those three countries (FLA 2006b, p. 26). Further training was conducted in September 2007, and in November 2007 the FLA is

planning to conduct an assessment of the impact of that training on hiring practices in five factories.[183]

JO-IN involves cooperation between CCC, the ETI, the FLA, the FWF, the SAI and the WRC. A common JO-IN code has been developed and a pilot project is being conducted in Turkey to implement the code in factories supplying a number of TNCs, including Adidas, Nike and Puma. The pilot in Turkey involves consultation and cooperation with the Turkish government, trade unions and civil society groups. Significantly, there have been difficulties in persuading factory suppliers to participate in the project and the number of factories involved has fallen from 15 to 6. The suppliers wanted Adidas, Nike and the other TNCs to share any additional costs involved in meeting the JO-IN standard, and to make a long-term commitment to ordering from factories which participate in the project. The TNCs have declined both requests and have refused even to maintain prices at current levels, promising only to maintain a buying relationship with participating suppliers over the course of the project (MSN 2007, p. 14). As I discuss below and in Chapter 6, the question of whether TNCs reward suppliers for complying with labour standards is central to the extent to which voluntary codes can improve respect for FOA.

Grievance procedures and worker education

In addition to its monitoring processes, the FLA has established a system of grievance procedures. Each participating company is required to develop "a secure communications channel, in a manner appropriate to the culture and situation, to enable…employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards…" (FLA 2007a, p. 35). In addition, the FLA itself has a third party complaint procedure which any person or organisation can use to confidentially report serious violations of the FLA code. Two of the case-studies in Chapter 6 involve FOA complaints to the FLA and I will defer consideration of how the FLA responds to complaints until that chapter.

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[183] Personal communication (phone call) with Franklin Chavarria of the FLA, 8 Aug. 2007 (notes held on file).

It is worth noting at this point that for workers to use the FLA's complaints procedure effectively they need to first know and understand their rights under the FLA's code and know what grievance procedures are available to them. The FLA's (2007a) Principles of Monitoring require the workplace standards to be posted prominently in each factory in local languages and that contractors and suppliers "undertake other efforts to educate employees about the standards on a regular basis". In July 2005, as part of research for an Oxfam report, I surveyed Nike, Reebok and Adidas regarding the extent to which workers in their supply networks had received independent training in trade union rights (OI 2006). Although each company could point to particular projects which had involved particular groups of workers receiving such training, their answers suggested that up until that point they had primarily put the onus on their suppliers to arrange training for workers in code-related labour standards (see OI 2006, pp. 68, 76, 81). However, Adidas indicated it was planning to increase its emphasis on worker training substantially and stated that with regard to training in FOA it expected its suppliers to "provide unions with access to the workforce and to training facilities" (OI 2006, pp. 76, 81).

The ITGLWF and other labour rights organisations have long argued companies participating in multi-stakeholder initiatives should release to the public the addresses of their supplier factories so trade unions can make contact with workers in those factories and educate them about their rights. Almost all TNCs have refused to provide this information,[184] but a breakthrough occurred in May 2005 when, during consultations with Nike regarding the company's CSR report, the ITGLWF succeeded in persuading the company to disclose the addresses of its suppliers of Nike-branded product. Later in 2005 Puma and Reebok also released their supplier addresses, and Adidas has committed to making its factory lists publicly available once the company is confident it is able to do so accurately and reliably.[185] In 2006, as a result of discussions with sports brands following the 2004 Play Fair at the Olympics campaign, the ITGLWF organised

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[184] US universities affiliated to the WRC and the FLA have required companies who supply them with college-licensed apparel to publicly release the addresses of factories which produce that apparel. Apart from this initiative, and the steps taken by sports brands described above, this level of transparency by TNCs in the apparel and footwear industry is highly unusual.
[185] Personal communication (letter) from William Anderson of Adidas to Kelly Dent and Daisy Gardener of Oxfam Australia, 4 Oct. 2007 (copy held on file by Oxfam Australia).

national meetings in the Philippines, Indonesia, Thailand and Malaysia involving local unions, representatives from sportswear factory suppliers and labour compliance personnel from Nike, Adidas and Puma. Although this approach is relatively new, the ITGLWF hopes it will help create a better atmosphere which will assist ITGLWF affiliates to push for trade union recognition for those workers who desire it.[186]

A particular training program arranged by Reebok—before it was purchased by Adidas—is noteworthy because it provides evidence of a relatively strong commitment among at least some Reebok staff to assisting workers to gain greater influence in their workplaces. In November 2002 I attended a conference at Renmin University in China titled "Labour Relations and Corporate Social Responsibility under Globalisation".[187] One of the presentations was by Jill Tucker, Reebok's human rights director for East Asia. Tucker described how, after the *Amended Trade Union Act* of October 2001 clarified that trade union committees in China should be elected by workers, Reebok worked with a number of Hong Kong-based labour rights organisations to provide training and education in trade union election processes to workers in several Reebok supplier factories in China. Significantly, a number of the groups which Reebok chose to work with in this project are outspoken participants in the anti-sweatshop movement who have been highly critical of Reebok and other companies. Two Australian academic China specialists, Anita Chan and Jonathon Unger from the Australian National University, were allowed to observe the training process in one of the factories and spoke positively about it in interviews with the *Financial Times* (2002). By 2005 Reebok had cooperated with Hong Kong-based labour rights organisations to arrange similar training in five other factories in China.[188]

Behaviour modification regarding trade union rights.
Under the FLA's (2007a) charter participating companies are required to "condition future business with contractors and suppliers upon compliance with the standards". Maintaining the business of major sportswear brands like Nike and Adidas is, of course, important to suppliers, particularly in the athletic footwear sector where these brands

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[186] Personal Communication (e-mail) from Doug Miller of the ITGLWF, 12 July 2007 (copy held on file).
[187] For a review of this conference see Utting (2003).
[188] Personal Communication (e-mail) from Doug Cahn of Reebok, 10 Aug. 2005 (copy held on file).

control significant market share. In the apparel industry, however, suppliers have to consider the threat of losing particular customers in the context of a range of other considerations. As discussed in Chapter 2, apparel suppliers commonly have multiple customers, and those customers rarely make long-term commitments regarding future orders. Competition for orders among suppliers is intense, so if labour compliance staff from a particular TNC tell a supplier to allow workers to form a union or risk losing that TNC's business, the supplier must weigh that threat against the impact the union will have on the factory's ability to attract orders from other customers. If a supplier believes a unionised workforce may interfere with the factory's flexibility, for example by undertaking industrial action, the supplier may well prioritise demands from all of its customers—that the supplier produce quickly, reliably and cheaply—over the labour compliance demands of one of those customers. The report of the 2006 ETI members' meeting makes a similar point regarding forced overtime:

> Purchasing practices that undermine ethical trade standards, e.g., short lead times that make it difficult to comply with overtime standards – are a key contributor to audit fraud. Faced with conflicting pressures from clients' buyers and ethical trade teams, suppliers recognise that the buyers' requirements hold more weight. So they meet the buyers' demands for high quality and short lead times through getting workers to work excessive overtime, then develop a set of false timesheets showing working hours that comply with the company's labour code... (ETI 2006, p. 12)

Numerous research reports into the effectiveness of corporate codes of conduct in the global apparel industry have reached the same conclusion: the dominant business model applied by TNCs in the industry—involving low prices, short turn-around times and short-term commitments to suppliers—is a major factor contributing to exploitative working conditions. Unless TNCs are willing to change these buying practices it will be very difficult for their suppliers to meet the labour standards in codes of conduct and they will have little incentive to do so (see for example AMRC 2004; CCC 2005b; IDS 2006; JFKSGHU/FES 2006; OI 2004; Utting 2003; WRC 2005).[189]

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[189] Articles discussing the importance of reforming buying practices in the apparel industry in order to improve labour conditions have also started to appear in the trade press (see for example *Just-Style* 2007b).

A number of organisations and individuals have recommended TNCs change their buying practices to provide suppliers with incentives to respect labour rights. As part of his work for the UN, Ruggie commissioned Roseann Casey of Harvard University to prepare a background report titled "Raising the Bar in Supply Chain Workplace Standards". Following extensive interviews with company and NGO representatives on multi-stakeholder initiatives, Casey concluded:

> There is agreement that the stick should be more consistently identified, but also that sufficient carrots should exist with clear, understandable value…At both company and the supplier levels, any change that, in the end, is not incentive based will be a temporary solution threatened by more compelling and competing business-case arguments. (JFKSGHU/FES 2006, p. 37)

Casey praised TNC labour compliance programs which focus on providing suppliers with management training programs and other skill-based training programs to improve both suppliers' economic performance and their compliance with labour standards (JFKSGHU/FES 2006, p. 37). Other organisations have suggested specifically rewarding compliance with trade union rights. For example, Oxfam recommends that TNCs prioritise retaining orders in unionised factories (OI 2006). Oxfam also recommends TNCs refuse to increase orders to countries where FOA is not protected by law, since factory managers frequently suppress worker organising by threatening to relocate factories to such countries (OI 2006).[190]

The WRC's latest approach similarly aims to reward suppliers who respect FOA by increasing their access to orders. In October 2005 the WRC's executive director, Scott Nova, sent a letter to participating universities which reviewed the WRC's work over the previous five years and concluded that the business model applied in the production of university licensed apparel "was incompatible with meaningful labor rights compliance" (WRC 2005). The WRC's (2006a) proposed solution is a Designated Supplier's Program (DSP) through which universities will commit to sourcing their

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[190] I co-authored this report and was involved in drafting this recommendation.

university logo apparel from factories which have been independently verified to be "in compliance with their obligation to respect the rights of their employees – including the right to organise and bargain collectively and the right to be paid a living wage". As part of this program companies licensed to produce apparel carrying university logos will be required to pay their suppliers a price "commensurate with the actual cost of producing under applicable labor standards" (WRC 2006a). They will also be required to maintain long-term relationships with suppliers and ensure "each supplier factory participating in the program receives sufficient orders so that the majority of the factory's production is for the collegiate market". USAS has been campaigning to persuade universities to agree to the additional commitments associated with the DSP program and the program will start once a sufficient number of universities have been persuaded of is merits (*Seattle Post-Intelligencer* 2007). By July 2007 there were 37 universities supporting the DSP program (WRC 2007).

Suggestions that TNCs should adapt their buying practices to reward suppliers who respect labour rights with higher prices and longer-term commitment have not, as yet, gained traction within the FLA. Representatives of the FLA have publicly expressed scepticism about the DSP program and this has caused significant tension between the FLA and the WRC (*Seattle Post-Intelligencer* 2007; MSN 2007, p. 34). In a January 2007 phone interview with MSN, Harvey was asked whether the FLA's new FLA 3.0 approach will address the role which TNC purchasing practices play in causing labour rights violations. Harvey replied that the process of discussing root causes of code violations will give suppliers the chance to put the issue of purchasing practices on the table, but would also give TNCs the opportunity to point out inefficiencies in suppliers' production processes. MSN (2007, p. 9) concluded that the FLA:

> ...seems to view the benefits of increased productivity and the promise of improved
> worker-management relations as a sufficient business case to win supplier buy-in.

The "business case" for labour compliance
In the absence of willingness by TNCs to directly reward their suppliers for respecting labour standards, the "business case" has become central to efforts to persuade suppliers

to comply with codes. As Utting (2005, pp. 379-80) points out, however, the evidence that respecting labour and environmental standards reduces suppliers' costs and improves their profitability is mixed.

Since 2002 first Adidas[191] (2002, p. 29; 2003, p. 26) and, more recently, Nike (2007, p. 5, 24) have both argued that the introduction of lean manufacturing (Lean) has the potential to improve both profitability and working conditions. Lean was developed by the Japanese car maker Toyota, and is sometimes referred to as "the Toyota way". Its key principles include identifying the value desired by customers; minimising the number of production and distribution steps required to provide that value; and maximising the speed with which the product flows through those steps to provide customers with the value they want at the time they want it (LEI 2007). In the context of sportshoe production, Lean has involved replacing assembly lines with groups of workers who are responsible for taking a product through a number of different production tasks. Workers in each group are trained to be able to conduct all of the tasks assigned to the group so they can switch between tasks in order to avoid bottle-necks at particular stages (Brown & O'Rourke 2007). Both Nike and Adidas have found Lean reduces costs, and both companies are in the process of persuading more of their suppliers to introduce Lean. Nike (2007, p. 48) reports that in the 2007 fiscal year the company "expects to see a $0.15 cost reduction for each pair of shoes produced on lines that have been lean for at least 12 months".

In an e-mail discussion of Lean, Nike representative Caitlin Morris emphasised to me that Lean is not only a set of manufacturing techniques, but also involves a wider philosophy which includes valuing workers and giving them a bigger role in decision-making.[192] All staff involved in a production process, including production-line workers, are encouraged to identify and rectify problems which are slowing down production, causing safety hazards, or creating unnecessary waste (LEI 2007). Both Nike and Adidas recognise the intensification of production associated with Lean can pose threats to workers' well-being, but argue these threats can be overcome if

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[191] Personal communication (e-mail) from Kitty Potter of Adidas, 12 Feb. 2004 (copy held on file by Oxfam Australia).
[192] Personal communication (e-mail) from Caitlin Morris of Nike, 2 Oct. 2007 (copy held on file).

managers adopt the empowering approach to human resource management which is part of the Lean philosophy (Adidas 2003, pp. 26, 33; Nike 2007, p. 24; see also Brown and O'Rourke 2007, p. 250; MIT 2006).

Nike (2007, p. 5) and Adidas do not only believe that the potential dangers to workers' health associated with Lean can be avoided, the also believe Lean benefits workers. Adidas (2002, p. 29) argues that since Lean requires factories to adopt more efficient processes and provide workers with special training, it "offers opportunities for factories to improve workplace health and safety and labour practices, increase communication between workers and management and reduce working hours". Nike argues Lean will increase workers' skill levels and productivity, and hence workers will come to be recognised as "craftspeople, not commodities", and "Compensation and worker treatment... [will reflect] this shift" (Nike 2007, p. 24). As evidence, Nike cites research by Professor Richard Locke and other academics at the Sloan School of Management at MIT. Nike allowed Locke and his colleagues access to the company's factory audits of working conditions in over 800 factories in 51 countries. Based on statistical analysis of this data, Locke et. al. (2007) conclude the number of times a factory has been audited by Nike compliance staff is not a major factor influencing the level of labour compliance, instead the most important factors are the age and size of the factory, whether the local government's labour inspectorate is enforcing labour laws, and whether or not the factory is working with Nike to implement Lean.

Locke et. al.'s (p. 22) explanation of the benefits of Lean for workers focuses on increased wages, reduced verbal abuse and reductions in compulsory overtime, they do not specifically consider the impact of Lean on trade union rights. The relationship between Lean and FOA is discussed by Brown and O'Rourke (2007) in their analysis of the impact of Lean on health and safety issues in an unnamed sportshoe factory in China. Brown and O'Rourke (p. 250) argue the considerable dangers associated with Lean require the "development of informed, empowered, and active workers with the knowledge, skills, and opportunity to act in the workplace to eliminate or reduce hazards". They (p. 256) identify a number of barriers to increasing workers' participation in decision-making in Chinese factories, including "opposition from the

government-controlled All China Federation of Trade Unions to genuine worker participation in factory-level decision making, and to any real forms of worker representation".

Even in countries where FOA is legally supported, it is difficult to see how the introduction of Lean will persuade factory suppliers that fully respecting FOA will enhance their productivity and profitability. As with all "business case" arguments for corporate responsibility, the danger is that instead of labour rights being treated as fundamental human rights, whether or not those rights are respected will depend on the extent to which it is profitable to respect them. Empowering individual workers to identify production problems and safety hazards is not the same thing as allowing workers to organise and collectively halt production in pursuit of wage claims or other improvements to their conditions of work.

The Asian TNC Monitoring Network, a labour rights network facilitated by AMRC, has published research by several academic and NGO researchers into respect for trade union rights in Toyota factories in Thailand, India and the Philippines. According to Arnold (2006), in Thailand the union accepts the the Toyota way, and management and the union work together to identify ways in which Toyota can enhance efficiency. In the Philippines and India, union leaders have taken a more conflictual approach, and Toyota has responded by dismissing union leaders and engaging in other anti-union activities (Haruhi 2006; Das & George 2006). Even in Thailand, Arnold (2006, p. 242) questions whether the harmonious relationship between the union and management is sustainable. In the nine years following the 1997 financial crisis in Asia, Toyota replaced 50 per cent of its permanent workers in Thailand, either with workers on short-term contracts or by out-sourcing work arrangements. Arnold (2006, p. 242) notes that if this replacement continues it will further undermine the union's power base and threaten the union's survival.

Rewarding labour compliance – the "balanced scorecard"
Although they are not required to do so by the FLA, when Nike and Adidas decide where to allocate orders, both companies' consider factories' compliance with labour

codes. Nike has introduced what it calls a "balanced scorecard" approach, which puts a numerical assessment of a factory's compliance with labour standards alongside the other measures used to determine order levels, including quality, price and delivery speed (Nike 2007, p.3). Adidas has a similar process which includes a measure of a suppliers' labour and environmental compliance as one aspect of the factory rating system which determines the volume of orders Adidas places with a factory.[193] In principle these are positive initiatives, but whether or not they benefit workers trying to organise trade unions depends very much on how they are implemented. If labour rights compliance is only a small part of the overall factory scorecard, and trade union rights only a small part of the assessment of labour rights compliance, whether or not a factory allows workers to form a union may be largely inconsequential in terms of how a factory scores and how many orders it receives. While researching this chapter I asked both Nike and Adidas for access to detailed information about how labour rights compliance scores had been calculated in particular factories, and how those scores had affected the factories' overall competition for orders.[194] Both Nike and Adidas acknowledged receipt of my requests[195] but did not share the information I had requested.

Trade union rights and the orders of discourse within sportswear TNCs

> ...networks of talk…transmit…morally attuned stories concerning …particular business practices.
> *Thrift and Olds (1996, p. 323)*

As discussed earlier, some institutionalist theorists argue regulation should enhance the access of public interest groups to the conversations which shape the orders of discourse operating within companies. In the final section of this chapter I assess two documents which give some hints as to how 17 years of anti-sweatshop campaigns and 10 years of participation in the FLA have influenced the weight given to trade union rights in the orders of discourse operating within Nike and Adidas.

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[193] Personal communication (letter) from William Anderson of Adidas to Kelly Dent and Daisy Gardener of Oxfam Australia, dated 4 Oct. 2007 (copy held on file by Oxfam Australia).
[194] Personal communication (e-mail) to William Anderson and Kitty Potter of Adidas, 3 Aug. 2007; personal communication (e-mail and fax) to Caitlin Morris of Nike, 3 Aug. 2007 (copies held on file).
[195] Personal communication (e-mail) from William Anderson of Adidas, 3 Aug. 2007; personal communication (e-mail) from Caitlin Morris of Nike, 3 Aug. 2007 (copies held on file).

2004 ILO report into the implementation of codes of conduct

The first document is a major ILO study into labour codes of conduct, including case-studies regarding the athletic footwear, apparel and retail sectors. The author, Ivanka Mamic (2004, p. 339) concludes that athletic footwear brands have "evolved the furthest in their systems for code implementation", a fact she puts down to the "timing and severity of public pressure" the sector has received. In researching the athletic footwear sector she conducted 47 interviews with representatives of sportswear TNCs and 30 interviews with representatives of their suppliers. The interviews were conducted in 2002 and the transcripts are extensively extracted in the report. Since my purposes are somewhat different to Mamic's, most of my analysis is based directly on her interview extracts rather than on her text. The following quotations are from her (pp. 86-7) interviews with labour compliance staff—Mamic calls them CSR[196] staff—and other senior employees of two unnamed sportswear brands:

> Our biggest problem is getting full support internally…we need a stakeholder rather than a shareholder philosophy. (FMNE 1, CSR Manager, Headquarters)

> Most of the senior management people, if you ask them what is in the code, they would not be able to quote [it to you]...Child labour, of course, but not the rest. (FMNE 1, Regional CSR Manager)

> There is a bit of an 'us' and 'them' relationship between CSR staff and country managers…We have had some issues with CSR staff being too aggressive, and we need to better train our own team on how to work with managers (FMNE 1, CSR Staff Member, Headquarters)

> …if we don't get support from production and the [TNC country level general manager], then the supplier won't care. We have to have their support. (FMNE 2, Country-Level General Manager)

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[196] In Mamic's text, CSR stands for corporate social responsibility, including initiatives to improve labour conditions. FMNE stands for foreign multi-national enterprise.

> With the code, you need to have buy-in from top management. Knowing that the president was behind it, it got into our performance objectives and made us roll it out with our leadership partners [supplier managers]…(FMNE 2, Headquarters)

> It really helps to have an impassioned CEO…Our CEO said we need to move toward greater innovation…if he would have said 'sustainable innovation' we would have seen a much greater impact. (FMNE 2, CSR Manager Headquarters)

> …we first of all have a strategic plan. These are the five or six things that we will focus on as a company, and each group needs to know what these are to know what to focus on.…We have also a great deal more experience with fitting [environmental issues] into the plan, but not so much with [the people issues]. (FMNE 2, Marketing Manager Headquarters)

These interviews indicate labour compliance staff within sportswear TNCs act as internal advocates for labour codes within their own companies. Although they may not frame it in these terms, these staff seem acutely aware they are engaged in discursive battles. They identify particular documents—strategic plans, lists of performance objectives—as authoritative and influential, and they aim to get labour and environmental objectives incorporated into those texts. Influencing the thinking and "talk" of senior managers within the company is also identified as important: the addition of just one word—*sustainable*—into a statement by the company CEO is accorded considerable significance.

Some of these quotations suggest production [buying] staff have more influence in relation to suppliers than compliance staff. Mamic's interviews with buying staff bear this out: she describes as "particularly insightful" the comments of one TNC manager responsible for manufacturing, who indicated that issues like quality, delivery and price are given precedence over code compliance:

> We are having quality problems at the moment, so when this happens the code initiatives fall by the wayside. Systems in place continue, but new initiatives are out of the question... (FMNE 1, Manufacturing Manager, quoted in Mamic 2004, p. 131)

Mamic (2004, p. 138) notes some of the TNC buying staff she interviewed saw compliance staff as "complicating or interfering in the already challenging job of purchasing and manufacturing". Her interviews with factory managers also suggest some resentment at being expected to incorporate the additional costs associated with code compliance.

> We need money. The code is an investment in society. But [the TNC] didn't pay any more, so that means the cost of this comes out of profits. The best way we see to deal with the costs is that we share costs. (VIS 2, Factory Manager, quoted in Mamic 2004, p. 103)

The labour compliance staff of sportswear TNCS are not authorised to share the costs of code compliance; instead they use a range of strategies to persuade suppliers to comply with codes, including "business case" arguments, training in code issues and threats to withdraw orders (Mamic 2004, pp. 89-102). Many also take a step-by-step approach, focusing on persuading suppliers to adhere with some aspects of the code before others:

> We have learned to start small, make sure you focus on things that can be successful. If you try the sledgehammer approach the factories might struggle and try to do things too early [before they really understand]. (FMNE 1, Country Manager)

It is not clear from Mamic's report where trade union rights are positioned in this manager's step-by-step process. Mamic's other case-studies, covering the apparel and retail sectors, each includes a section discussing freedom of association, but this section is absent from her discussion of the athletic footwear sector, possibly because all the footwear factories she investigated were located in China and Vietnam. Mamic (2004, p. 88) does include one paragraph noting "some companies" seek to promote "parallel means for…freedom of association and collective bargaining" in countries which restrict trade union rights, but her 70-page discussion of the athletic footwear sector makes no mention of whether sportswear brands are pursuing these strategies. Her interview extracts for the sportswear sector refer to strategies for implementing

substantive labour standards—such as working hours, wage rates and health and safety—rather than procedural standards such as trade union rights.

Mamic's interviews demonstrate that labour compliance staff in sportswear companies actively promote labour rights discourses not only to suppliers, but also within their TNCs. Her (p. 138) report suggests the extent to which they are successful in promoting these discourses varies—depending on factors such as their advocacy skills and the TNCs' overall commitment to code compliance—but most compliance staff seem to operate from a position of relative weakness when compared with their colleagues responsible for purchasing from suppliers. Some compliance staff challenge internal discourses which make accumulation the TNCs' overriding priority, for example by advocating the need for a "stakeholder" rather than a "shareholder" philosophy. Others accept the dominant discursive position of accumulation, for example by using "business case" arguments to persuade suppliers to comply with codes. Unfortunately it is not clear from Mamic's report what discursive weight is accorded specifically to trade union rights—as compared with other labour standards—either by compliance staff or more widely within sportswear TNCs.

***Innovate for a Better World*, Nike's Corporate Responsibility Report for the 2005-6 Fiscal Year**
The second document is Nike's (2007) latest corporate responsibility report. This report narrates a history in which Nike's (2007, pp16-17) approach to labour standards moves through a number of "generations":

> With the benefit of hindsight, we now define a number of different generations of approaches that evolved within Nike and are mirrored in the broader labor discussion…In Generation I we set standards. In Generation II we developed tools and methods to monitor those standards…Generation III is what we call responsible competitiveness.

"Generation III" resulted from a major internal review conducted in the 2005 fiscal year and is described as a "significant evolution in how we frame, define and approach corporate responsibility" (Nike 2007, p. 10). Whereas Mamic's 2002 interviews suggested compliance staff within sportswear TNCs were struggling to increase the

internal discursive influence of labour codes, *Innovate for a Better World* portrays the transition from Generation 1 to Generation III as a process through which the discourse of corporate responsibility has become far more influential in Nike's decision-making processes. The internal review made Nike aware that:

> …we needed to transition our corporate responsibility efforts beyond the standard risk and reputation management approach usually taken, beyond the work of an isolated function within the business model…we see corporate responsibility of the future… [as] requiring a unified approach deeply embedded in every part of the business. (Nike 2007, pp. 7, 14)

The introduction to the report, by Nike's CEO Mark Parker, emphasises this point:

> Today, corporate responsibility no longer exists on the periphery as a check on our business, but is assuming its rightful role as a source of innovation within our business. Corporate responsibility is no longer a staff function at Nike. It's a design function, a sourcing function, a consumer experience function, part of how we operate. (Nike 2007, pp. 7, 14)

This transition is reflected in Nike's organisational structure:

> The [corporate responsibility] team reports into Nike, Inc.'s CEO with the vice president of Corporate Responsibility sitting at Nike's senior leadership table, attending strategic reviews and meetings, and giving responsible business practice a greater voice with more ability to influence the company's strategic direction. (Nike 2007, p. 10)

Previous tension between compliance staff and buying staff is acknowledged, but the report suggests this is being overcome by integrating corporate responsibility into all aspects of the business:

> Rather than highlighting what was wrong in our business units and handling issues in terms of risk and reputation management, we are engaging the business and integrating compliance policy and process into business practices and performance measures. (Nike 2007, p. 18)

This integration involves assessing how Nike's own business practices are interacting with its suppliers' practices to cause violations of Nike's labour code. In language reminiscent of that used to describe the FLA's new FLA 3.0 approach, Nike's (2007, p. 18) report emphasises the need to go "beyond the issue and understand the root cause". Nike's examination of the impact of "our business processes and purchasing practices" on the "root causes of excessive overtime" for example:

> …helped us understand how often these buyer-related causes drive pressure on workers to put in excessive overtime and allowed us to shift our dialogue with contract factories from policing to one of [systematic] solutions and business excellence. (Nike 2007, p. 22-3)

This focus on the impact of its own business practices on labour issues has also led Nike (2007, p. 22, 29) to move toward "strong, long-term, strategic partnerships" with a smaller number of factory suppliers and to focus Nike's labour monitoring and capacity-building efforts on the approximately 130 "key contract partners" who account for 80 per cent of the production of Nike's goods.

In Chapter 1, I described Fairclough's analysis of the ambivalence inherent in Thatcherite discourse—a discourse in which "authoritarian elements coexist with democratic" and "patriarchal elements with feminist", but always "with the latter member of each pair being contained and constrained by the former" (Fairclough 1995, p. 77). While *Innovate for a Better World* suggests labour standards and other corporate responsibility issues are gaining increasing significance in the internal discussions which frame decision-making within Nike, it also conveys the sense that these issues are constrained by a dominant discourse of profit-making and growth. "Responsible competitiveness", the phrase which the report uses to describe "Generation III", is defined as "enabling a win-win for workers' rights and for growth and profitability across our supply chain" (Nike 2007, p. 18). Despite the supposed equality of the two terms, the report emphasises the way in which competitiveness needs to discipline Nike's efforts to be responsible, rather than the way in which Nike's competitiveness needs to be disciplined by social and environmental responsibility. The report introduces the concept of "Return on Investment squared" or "ROI^2":

We call this ROI^2, creating an exponential return from integrating corporate responsibility into our business…This approach forces us to focus on the business impact of our corporate responsibility strategy, creating greater clarity on how responsible business practices can be a source of growth and innovation. (Nike 2007, p. 12)

The report also suggests it is necessary for corporate responsibility to enhance profitability and growth if it is to become widely accepted in the business world:

Corporate responsibility must evolve from being seen as an unwanted cost to being recognised as an intrinsic part of a healthy business model, an investment that creates competitive advantage and helps a company achieve profitable, sustainable growth. (Nike 2007, p. 7)

…the business case is critical. When you show the tangible return on investment from responsible business practices, you open up the ability for market forces to drive change. (Nike 2007, p. 8)

As discussed earlier, Nike's strategy for a "win-win" solution which will enhance both labour standards and profitability focuses on the introduction of lean manufacturing practices (Nike 2007, pp. 5, 48). Although Nike will continue to use and develop its "balanced scorecard", Nike does not seem to expect that the weighting given to labour rights compliance on this score-card will persuade Nike's suppliers to respect labour standards. Nike's report emphasises the need to persuade suppliers of the "business case" for corporate responsibility, but this business case is framed in terms of assisting suppliers to reduce costs and increase productivity, rather than in terms of beneficial access to Nike's orders via the balanced scorecard. The report has this to say on the question of how to persuade suppliers to reduce excessive overtime:

In general, the true cost of excessive overtime still goes unmeasured within most contract factories in the industry. Building the links between traditional areas of measurement in contract factories, such as quality and delivery, and the human element – turnover rates, costs of recruiting and training, time lost due to incidents and accidents – are crucial in establishing a business case for eliminating excessive overtime. Without a clear business

case, contract factories have a difficult time embracing investments in human resource management systems. External market pressures are simply too overwhelming and the rule of law generally too weak to create a level playing field at the regulatory level. (Nike 2007, p. 46)

Innovate for a Better World does not articulate how FOA fits within the "business case" for corporate responsibility. That is not to say FOA is not discussed; Nike (2007, p. 43) acknowledges that:

> Protecting the rights of workers to freely associate and collectively bargain remains a persistent and fundamental compliance challenge in the industry…Although we have undertaken some specific actions over the past two years, we feel that much more needs to be done in this area.

The report indicates one of Nike's five main priorities in the labour rights area between 2007 and 2011 will be to develop a "deeper and more clearly defined Nike position on Freedom of Association" and implement an educational program regarding FOA for all its compliance staff and key contract partners (Nike 2007, pp. 13, 44). Nike is also currently consulting with external stakeholders to determine how it will incorporate FOA into Management Audit Verification (MAV), a new factory assessment tool which is designed to use "root cause analysis" to determine how factories can change their human resource management systems in order to ensure compliance with Nike's code (Nike 2007, p. 29). This suggests there is acceptance within Nike that the company needs to take FOA seriously, or at least needs to be seen to be doing so. Clearly, though, Nike is yet to work out how FOA fits—both conceptually and practically—within the focus on "competitiveness" in the new "Generation III" approach to corporate responsibility. There is evidence that in certain circumstances trade union organisation can contribute to greater productivity. Addison's (2005) research, for example, indicates that when combined with innovative work practices the presence of trade unions and other mechanisms for worker representation in a workplace can yield substantial productivity gains. The anti-sweatshop movement will, however, be concerned that rather than treating FOA as a human right, Nike's Generation III approach will only result in respect for FOA in those circumstances where it is likely to enhance

profitability. The report's indication that Nike (2007, p. 44) believes there is a need "for local unions to build capacity to be effective and constructive partners with management" will likely enhance concern that workers' rights to FOA will only be respected if and when workers' organisations are willing to cooperate with management rather than taking industrial action or engaging in other conflict-based strategies.

There is not space to provide a similarly detailed evaluation of one of Adidas' corporate responsibility documents, but the emphasis within those documents is similar to that in *Innovate for a Better World.* Like Nike, Adidas (2007a) speaks of "addressing the root causes of problems and helping factories to improve by developing and running their own management and governance systems". Like Nike, Adidas (2007a) is reducing the number of its suppliers, at least for its "core business and international export market production". Adidas' (2007b) equivalent to Nike's "responsible competitiveness" is the phrase "competing responsibly", which it explains as the belief that "the values and principles we share with our business partners positively impact business and the life of people making our products". As with Nike, it is not clear whether and, if so, how Adidas expects to persuade its suppliers that it is in their economic interest to respect workers' right to freedom of association.

Conclusion

> We aren't here to help change anything; we're only a PR prophylactic. Hiring an industry-friendly "independent" inspection company is the most cost-effective way for the manufacturers to maintain their profits while claiming to care about the people on whose sweat their profits depend.
>
> *Joshua Samuel Brown (Albion Monitor 2001)*

This quote is taken from Brown's 2001 article "Confessions of a Sweatshop Inspector" (also published as "Memoirs of a Dog Meat Man") in which he described his experience working as a labour auditor in China for a US-based labour auditing firm. He reported he and his fellow auditors were rewarded by their employer on the basis of the quantity of audits they completed, not their rigour, and neither the corporate clients who requested the labour audits nor the managers of the factories he audited took his

findings seriously. One Chinese factory manager he interviewed described the process of commercial labour auditing as an illustration of the Chinese proverb: "Hang a sheep head but serve dog meat". As the quote indicates, Brown's experience led him to agree with this interpretation of his role, he concluded he was there to help make it look like TNCs cared about labour rights, not to actually change anything.

Brown's article is extensively quoted on anti-sweatshop web sites. His account of voluntary labour monitoring closely matches what many labour activists expect from voluntary forms of labour regulation: little more than public relations exercises designed to conceal exploitative working conditions and legitimise current business models. The evidence cited in this chapter indicates that, at least in so far as trade union rights are concerned, this is a relatively accurate representation of what Nike (2007, p. 7) calls the "risk and reputation management approach usually taken" by TNCs who adopt voluntary labour codes and employ external social audit firms to monitor them. Most of these TNCs appear to be looking for a narrative which will justify their labour practices while causing minimal disturbance to the dominant discourse which guides the delivery and price demands they make of their suppliers.

As indicated in Chapter 1, Fairclough (2005) argues the way different discourses interact within organisations can be described in terms of relations such as "dominance, resistance, [or] marginalization" and the orders of discourse operating within organisations can be "more or less stable and durable, or stable in some parts and unstable in others, more or less resistant to change or open to change". Hence people participating in organisations—and organisations themselves—can respond to pressure to change discursive practices in a variety of ways:

> …they may comply, they may tactically appear to comply, they may refuse to be budged, or they may arrive at all sorts of accommodations and compromises between existing practices and new techniques. (Fairclough 1995, p. 206)

The prevalent model of labour monitoring by social audit firms seems to provide TNCs with a means of appearing to incorporate labour rights discourse while ensuring that

discourse remains at the periphery of the company's self-reproduction, leaving the dominant business model unchallenged. In Fairclough's (2003, p. 208-9) terms, labour rights discourse is appropriated by these TNCs "without being enacted or inculcated"; that is, codes of conduct and other texts advocating labour rights are formally circulated by these TNCs, but they have very little impact, if any, on the way staff in those companies understand their roles and responsibilities.

In contrast, in so far as labour rights are concerned, the orders of discourse operating within Nike and Adidas/Reebok have been relatively unsettled since the mid-1990s; a number of different compromises and accommodations between labour rights concerns and the dominant business model have been established and then challenged and re-negotiated. Mamic's (2004) interviews with representatives of sportswear brands in 2002 indicated labour compliance staff were engaging in internal discursive battles, trying to increase the significance attached to labour standards compliance in key internal texts, including the utterances of upper management personnel. Nike's (2007, p. 14) most recent corporate responsibility report describes the company as having moved through several "generations" of approaches to labour standards, with the most recent generation marked by labour standards and other aspects of the company's corporate responsibility program moving from a peripheral position to become "deeply embedded in every part of the business". Close reading of the report, however, indicates this process of embedding has also involved disciplining and constraining labour issues within the dominant discourse of profit-making and growth. The report indicates Nike staff are being encouraged to identify and prioritise strategies which will improve workers' conditions in such a way as to also enhance profitability for Nike and its suppliers. The report articulates a strategy for reducing excessive overtime in supplier's factories in a manner which is also designed to enhance profits, but it is far from clear how Nike intends to enact its stated commitment to trade union rights the context of this "win-win" strategy.

Institutionalist regulatory theorists such as Teubner, Ayres and Braithewaite argue companies are more likely to internalise new discourses if organisations and individuals representing social movements identified with those discourses gain greater input and

participation in internal decision-making processes.[197] Whereas Nike's latest corporate responsibility report celebrates the fact that the company's vice president of corporate responsibility now has a seat at Nike's senior leadership table, these theorists would want to find ways of getting representatives of workers and labour rights organisations into those conversations, or at least to find ways to make Nike's vice president of corporate responsibility more accountable to such groups.

Although they do not sit on company leadership teams, the civil society organisations represented on the FLA board have gained a certain amount of influence over the ideas and practices of participating companies and their achievements should not be discounted. The FLA's relatively brief history has also involved a number of different "generations", with each new "generation" associated with reforms which open participating companies to greater scrutiny and put them under greater pressure to cooperate with civil society organisations to improve labour conditions in their supply networks. Under the FLA's charter agreement, participating companies are required to develop internal compliance programs to investigate whether their supplier factories are complying with the FLA's code. Despite several commentators' arguments that the FLA prefers "factory auditing" to "worker organising", the NGOs involved in the FLA have successfully persuaded Nike, Adidas/Reebok and other participating companies to accept that the FLA codes' commitments to FOA and collective bargaining should incorporate the detailed explanation of these rights set out in the relevant ILO jurisprudence. This adds considerably to the scope of these commitments—for example by incorporating workers' right to strike.

Under its charter agreement, the FLA's (2007a, p. 4) key role is to "independently verify, evaluate and publicly account for the internal compliance programs of each participating company". Since the FLA's processes were reformed in 2002, auditors selected by the FLA have been making unannounced monitoring visits to suppliers' factories. Since 2002 the FLA has also published summary "tracking charts" indicating what code violations are discovered during these visits, and how those violations are

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[197] Teubner and Ayres and Braithwaite do not use the term "discourse" but the logics, conversations and practices their regulatory systems seek to influence are very similar to Fairclough's definition of discourse discussed in Chapter 1.

addressed by the relevant participating company. Most multi-stakeholder initiatives allow companies or factories themselves to select factory monitors and few publicly report on individual factory investigations, so several labour rights groups regard the 2002 FLA reforms as important steps forward in terms of transparency and independence. In 2005 the FLA also announced the introduction of FLA 3.0, which involves a more systemic and region-specific approach to labour rights regulation, and which aims to give local unions and labour rights organisations a greater role in defining why labour violations are occurring and how they can be prevented. Recent decisions by Nike, Adidas and Puma to release the addresses of their factory suppliers and engage in meetings with representatives of ITGLWF-affiliated unions in Asia suggest participating companies are becoming more willing to engage in this kind of local consultation.

Notwithstanding the various improvements in the FLA's regulatory system, public interest regulatory theorists—and many labour rights campaigners—would regard it as nonsensical for the FLA to give companies like Nike and Adidas/Reebok a primary role in investigating labour rights violations in their own supply networks. Such theorists believe corporate regulation needs to be administered by organisations which are completely independent of the industry being regulated. In contrast, institutionalist regulatory theorists argue effective corporate regulation necessarily involves enlisting corporate support and cooperation. From this institutionalist perspective, whether participating TNCs rigorously investigate and enforce the labour standards in the FLA code will depend on the position which labour rights discourses achieve within the debates, power plays and resulting regularised processes which reproduce corporate behaviour. Although most labour rights activists probably analyse voluntary codes of conduct in the same terms as public interest regulatory theorists, there are signs the institutionalist perspective is gaining some support among labour rights campaigners. Strikingly, several prominent labour rights organisations have recently called on companies to better resource and staff their in-house labour compliance departments—a remarkable turnaround compared with the demands labour activist groups were making during the 1990s.

Whether or not FLA companies are properly investigating violations of trade union rights in their supply networks is an empirical question. Based on the FLA's own public reports some anti-sweatshop groups have raised concerns about the skills of many of the auditors the FLA has employed and about whether participating companies have conducted adequate follow-up investigations when FLA auditors have identified violations of trade union rights. My reading of the FLA's reports and tracking charts bears out these concerns, but the most recent FLA tracking charts also provide evidence that the FLA is at least taking some of these concerns seriously and putting in place strategies to address them. The FLA does not specifically name the factories in its charts, however, so it is not possible to conduct independent research to assess whether the FLA's charts accurately reflect the extent of trade union rights violations in the relevant factories. The next chapter includes factory case-studies based on my own research, and makes a fuller assessment of the rigour with which Nike, Reebok, Adidas and the FLA are assessing suppliers' compliance with FOA standards.

Discovering the extent to which rules are being broken does not, however, complete a regulatory process; the next task is to influence the behaviour of the offending individual or institution. Even if participating FLA companies discover all cases where suppliers are violating trade union rights, it is questionable whether the FLA's proposed form of discipline will effectively persuade those suppliers to bring their practices into line with the FLA code. Allen's (2003) attention to specific modalities of power, discussed in Chapter 1, is relevant here. In a formal, legal sense apparel and footwear retailers and brand-owning companies (buyers) negotiate contractual arrangements with their factory suppliers. However, as discussed in Chapter 2, as buyers gain greater market share their ability to dictate terms such as price, delivery times and quality to their suppliers also increases. As buyers gain greater leverage in their negotiations with suppliers, the process comes closer to Weber's definition of "domination": a situation where one party, in following its rational self-interest, is left with little choice other than to comply with the demands of another party (cited in Allen 2003, p. 28). The buyers' leverage in these contractual negotiations comes from their ability to move orders to another supplier, and the FLA asks participating companies to use the same leverage to persuade suppliers to comply with labour codes.

Both Weber and Allen, however, argue that in order to be effective even a relationship of domination needs to be perceived as legitimate; in Allen's terms, for domination to be maintained it needs to be combined with another modality of power, that of "authority" (2003, p. 28). Negotiation between buyers and suppliers are usually interpreted by the negotiating parties within a neo-liberal understanding of what companies can and should do: both buyers and suppliers generally accept they should try and negotiate the best financial terms for themselves as they can. Suppliers may not like their buyers pressing them to accept lower prices and faster turn-around times, but such demands make sense to them within the context of a shared discourse which makes accumulation the predominant goal of corporate activity. Corporate labour codes introduce a new discourse, one which frames corporate roles and responsibilities very differently. The distance between the two discourses is succinctly expressed by the factory manager interviewed by Mamic: "We need money. The code is an investment in society." Allen (2003, p. 119) argues those who want to exercise authority must also discipline their own actions within the framework of the moral discourse they want to apply to the actions of others. The factory manager interviewed by Mamic expressed this expectation when he argued buyers should share the costs of implementing labour codes, as did the Turkish suppliers who asked Nike, Adidas and other brands to share the costs of implementing the JO IN pilot programs. A number of labour rights groups and academic commentators have also argued it is unrealistic for TNCs to demand their suppliers simultaneously increase respect for labour rights while continuing to reduce costs and increase speed of delivery. These commentators have called on TNCs to share the cost of code compliance by providing financial and other incentives to suppliers who respect codes. Such an approach would have the potential to increase the authority/legitimacy of labour codes in the eyes of suppliers and also bring into play another of Allen's modalities of power, that of inducement.

Unlike the WRC, so far the FLA has not required participating companies to provide suppliers with financial incentives to comply with codes. Instead, participating companies like Nike and Adidas focus on persuading suppliers of the "business case" for complying with labour standards. That is, they seek to legitimise labour standards

demands within the existing neo-liberal discourse. In doing so they potentially distort the rights discourse, making respect for labour standards contingent on whether those standards are enforced in such a way as to enhance profitability. In so far as trade union rights are concerned, the danger is that Nike and Adidas will only support these rights if and when trade unions adapt their demands and tactics so as to avoid interfering with corporate accumulation. The case-studies presented in the next chapter explore how this clash of discourses works itself out at the scale of individual workplaces.

Chapter 6

Anti-sweatshop campaigns, voluntary codes and trade union rights in individual workplaces: "shock therapy" for factories or "the bitter irony of organising"?

> ...the factory managers remember what happened with [a union organiser who was dismissed but was later reinstated following campaign actions by anti-sweatshop groups]…That case for them was like, what do you call it? Shock therapy.
>
> *Male Indonesian union leader (Factory A), 3 Oct. 2000.*[198]

> I was…put with the most feared and cruel supervisor in the entire factory complex...I was kept under his watch… If anyone tried to communicate with me, they were told not to talk to me. He would come up to anyone who was trying to reach out to me and say, 'Hey, what do you want with Ngadinah? Why are you talking to her?' That was a very real kind of isolation, when everyone was scared to come near me even…I had known the risks that I was taking in becoming active in the union. But I had no idea I was going to be socially isolated to that level.
>
> *Ngadinah Binti Abu Mawardi (union organiser at Panarub), 1 Oct. 2003.*[199]

> All of these risks are the bitter irony of organising.
>
> *Female Indonesian union member (Factory C), 28 Sept. 2003.*[200]

This chapter contributes to a relatively small academic and NGO literature assessing whether anti-sweatshop campaigns and corporate codes of conduct have assisted workers to establish unions and bargain collectively (see for example Armbruster-Sandoval 2005; Collins 2003; Esbenshade 2004b; Frundt 1999; Johns 1998; McKay 2006; MSN 2005; OI 2006; Ross 2004). The literature includes some accounts of successful organising drives, but many of these successes have been relatively short-lived. In the Casimas Modernas shirt factory in Guatemala, the BJ&B cap factory in the

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[198] Focus group discussion with organisers and members of the Perbupas union at Factory A in Jakarta, Indonesia, 3 Oct. 2003 (audio-tape held on file). I conducted this focus group in my capacity as labour rights advocacy coordinator for Oxfam Australia.
[199] Focus group discussion with organisers and members of the Perbupas union at Panarub in Tangerang, Indonesia, 1 Oct. 2003 (transcript held on file). This interview was conducted by my colleague Bhumika Muchhala, during field research in Indonesia which we conducted jointly for Oxfam International.
[200] Interview with female union member from Factory C in Bandung, Indonesia, 28 Sep. 2003 (transcript held on file). This interview was conducted by my colleague Bhumika Muchhala, during field research in Indonesia which we conducted jointly for Oxfam International.

Dominican Republic, the Gina Form Bra factory in Thailand, the Kimi garment factory in Honduras, the Mandarin International factory in El Salvador, the Chentex factory in Nicaragua, and in several other garment factories in other countries, international campaign support did help workers establish trade unions, at least for a few years. But over the longer term this international support did not prevent these unions from being shut down, whether as a result of factory closure, union busting, or other causes (Armbruster-Sandoval 2005, pp. 29-134; Esbenshade 2004b, pp. 183, 195-7; Johns 1998; Ross 2004, pp. 274-282; MSN 2005, pp. 23-35).[201] Most of the factories considered in this chapter are located in Indonesia,[202] and the chapter opens by considering the industrial relations context in that country. Next I describe how a combination of union organising, anti-sweatshop campaigning and the operation of the FLA's regulatory system has affected respect for trade union rights in eight different factories.[203] In the third and final part of the chapter, I analyse the role which Nike, Reebok, Adidas and the FLA have played in enhancing, or failing to enhance, respect for these rights in these factories. In each of these cases, labour compliance staff from one of these TNCs have made some effort to investigate and uphold workers' right to FOA, but the nature and extent of this effort has varied considerably between TNCs, between factories, and over time. In several of these factories the trade unions are still operating, but in others the workers' experience has been similar to that described above, with initial success being followed by factory closure or by other events which have prevented workers from exercising their right to organise. Certainly had I written this chapter in September 2004, rather than September 2007, my analysis of Nike, Reebok and Adidas' labour programs would have been more sanguine. Writing in 2007, these cases have helped persuade me that, at least in the garment and footwear industry, voluntary corporate labour initiatives will not increase respect for freedom of association until suppliers are offered greater incentives for compliance.

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[201] Thankfully, not all international anti-sweatshop solidarity campaigns have ended with factory closures or union-busting. The continuing success of the international campaign supporting the organising and bargaining efforts of workers in the Kukdong factory in Mexico has, for example, been well-documented (see Collins 2003, pp. x, 180-1; GE 2001; Ross 2004, pp. 267-274; Esbenshade 2004b, pp. 188-91; Knight & Wells 2007). Note that the name of the Kukdong factory has been changed to Mexmode.

[202] Five of the eight workplaces I discuss in this chapter are located in Indonesia, the remaining three are in Sri Lanka, Thailand and the US.

[203] The reasons for choosing these factory cases, and the research methods employed, were explained in Chapter 3.

A brief history of the Indonesian labour movement

Indonesian apparel and footwear factories share many of the characteristics identified in Chapter 2 as being common to such factories in other developing countries: factory managers primarily employ young women who have migrated from rural areas to outer urban industrial zones; they demand work at high intensity for long hours, which leads to high rates of employee turnover; they commonly use threats of dismissal or factory relocation to discourage union activity. As also noted in Chapter 2, the particular challenges facing workers seeking to organise are shaped by the political and cultural context in which they live and work. A brief explanation of the industrial relations situation in Indonesia is therefore appropriate.[204]

In the 1960s, during Suharto's[205] accession from army general to president, thousands of members of the 62 trade unions affiliated to the Indonesian communist party were murdered, and these unions were deregistered (Hadiz 1997, p. 59). From 1973 until 1998 only one trade union, initially called FBSI and then later SPSI,[206] was legally allowed to operate. Hadiz's assessment that SPSI "was created to demobilise, rather than to mobilise labor, on behalf of the state" is well accepted (Hadiz 1997, p. 92; Caraway, in press, p. 8; Ford 1999; Schwarz 1994, p. 258). During Suharto's rule there was some variation in the role played by SPSI in different workplaces, but collusion and corruption were endemic. At all levels of the union's hierarchy, SPSI leaders generally held their positions not as a result of democratic elections by union members, but because of links to Suharto's Golkar[207] party, the military or employers (Caraway, in press, pp. 9, 17; Hadiz pp. 101-4, 142, 205; Schwarz 1994, p. 259). In many factories workers became members of SPSI automatically rather than by choice, and factory-level SPSI leaders commonly had closer relationships with managers in their factories than with their members (Caraway, in press, p. 9: Schwarz 1994, p. 259). During this time the military was closely involved in labour control: labour regulations legitimised

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[204] For a more comprehensive account of the history of the Indonesian labour movement see Hadiz (1997).

[205] Like many Javanese, Suharto has only one name.

[206] FBSI stands for Federasi Buruh Seluruh Indonesia which translates as Federation of All-Indonesia Labourers; SPSI stands for Serikat Pekerja Seluruh Indonesia which translates as the All Indonesian Working Peoples Union.

[207] Golkar is an abbreviation of *Partai Golongan Karya* which translates as Party of the Functional Groups. Golkar continues to be one of the biggest parties in Indonesia's Parliament.

military intervention to prevent labour disputes, and it was not uncommon for SPSI leaders to call in the military to suppress worker unrest (ILO 2002, p. 18; Caraway 2004, p. 34; Hadiz 1997, pp. 104-10; Ford 2000, p. 69). Even with this close relationship with employers and the state, SPSI only claimed to represent a small proportion of Indonesian workers; in 1997 about 2.2 million workers were SPSI members, approximately 2.7 per cent of the total labour force (Caraway, in press, p. 8).

After Suharto stood down from the presidency in 1998, a combination of international pressure from the ILO and the IMF[208] and domestic calls for political reform, led Suharto's successor, Jusuf Habibe, to ratify ILO Convention no. 87 regarding FOA (Caraway 2004, pp. 35-6). Habibe's successor, Abdurrahman Wahid, subsequently introduced legislation which further entrenched workers' right to FOA in Indonesian law.[209] This resulted in a dramatic increase in the number of trade unions in Indonesia: by 2001 official union registrations included 61 union federations, 144 national-level unions, and approximately 11 000 enterprise unions (SMERU 2001). A number of these new unions had been part of SPSI but split from it after 1998, some with the encouragement of international donor organisations; others had been operating underground before Suharto fell, often with the support of Indonesian labour NGOs (Caraway 2001; Caraway 2006, p. 191; Ford 2000, pp. 76-7). The situation at the workplace level continues to be complex: while some workplace unions operate democratically, across all union federations many of the factory-level "unions" continue to collude with factory managers, according to the pattern established under Suharto. Despite the proliferation of new unions in Indonesia, SPSI and the unions which broke away from SPSI continue to be by far the largest and most influential. Caraway (in press) notes the close relationships which commonly exist between SPSI union leaders and employers tend to create significant barriers to organising by other unions, since "switching unions requires confronting [both] management and existing union leaders".

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[208] The IMF is not usually known as a supporter of trade union rights; its advocacy of core labour standards during this period may have resulted from pressure from the US Treasury as well as concern about the social dislocation caused by the Asian financial crisis (Caraway 2004, p. 36).

[209] Law No. 21, 2000 stipulates no one is allowed to stop workers from forming unions, nor force workers to join unions. Similarly, no one is to obstruct unions from carrying out their activities.

In most factory-level unions there are also issues of gender discrimination: the overwhelming majority of factory workers in the garment and footwear factories are women, but most union leaders are men and issues of women's representation and concerns specific to women workers and are frequently marginalised (*Inside Indonesia* 2003). Women also face a number of gender-specific barriers to participating in labour activism. These include social constructions of femininity and motherhood, and cultural expectations that, even when working long hours in the paid work-force, they will still do more domestic and caring work in households than men. Even so, Silvey's (2003) study of women's involvement in labour activism in two Indonesian villages demonstrates that the way gender norms and expectations are negotiated varies across different local communities, and that Indonesian women play an active role in producing gender relations and creating spaces of labour activism.

While some developments in Indonesian government policy since 1998 have facilitated the formation of independent trade unions, other processes are constricting opportunities for workers to organise. When workers attempt industrial action they are still often met with violence, although now factory managers are more likely to seek the assistance of local criminal gangs—known locally as "preman"—than the military (Caraway 2001, p. 8; Ford 2000, p. 77). Employers have also advocated legal reforms which would give them more flexibility in the employment relationship, including increased freedom to employ workers on short-term contracts (Islam 2001; Caraway 2004). These proposed reforms have met strong resistance from the Indonesian labour movement, and despite the movement's disunity and limited membership it has had some success in moderating the extent of reform (Caraway 2004). During negotiations with employer groups regarding the 2003 Manpower Act,[210] for example, Indonesian unions successfully ensured that this law protects the right to strike and puts close restrictions on the circumstances in which workers can be employed on a short-term or casual basis (Caraway 2004). During 2006 the Indonesian government considered a new labour bill which would have made it easier to fire workers, and would have broadened the circumstances in which short-term contracts could be used. This bill was fiercely opposed by Indonesian unions, particularly during May Day rallies in 2006, and the

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[210] Law no. 13/2003.

government subsequently dropped the bill, although it may still introduce ministerial regulations covering these issues (*The Jakarta Post* 2006a; 2007).

Although many of Indonesia's labour laws are relatively progressive, little energy is put into enforcement and corruption is widespread at all levels of the Indonesian legal system (US State Department 2007; Hainsworth 2007; *The Jakarta Post* 2006b; *The Sydney Morning Herald* 2006). As a result, many employers deliberately flout labour laws, confident their chances of being punished for doing so are slim. Significantly, during public debate regarding the 2006 bill, *The Jakarta Post* (2006a) quoted Jimanto, the secretary-general of the Indonesian Employers Association (APINDO), warning the government that employers would act "unilaterally" if their demands for legal reform were ignored:

> Jimanto said labor-intensive companies such as shoe, textile and garment factories would continue "rationalising" their employees, recruiting contract-based workers to reduce their labor costs and outsourcing part of their labor to home industries. "This is a last resort and we have to do it for survival in this poor economic climate," he said. (*The Jakarta Post* 2006a)

As selected case-studies in this chapter demonstrate, lack of enforcement of laws regarding FOA is a serious problem for Indonesian unions.

Nike and trade union rights in Factories A and B[211] in Indonesia

In these two, interrelated cases, Nike's compliance staff were willing to take some steps to persuade their supplier to uphold trade union rights, but Nike's efforts fell short of the guidelines set down by the FLA. Notably, where the facts were in dispute, Nike was reluctant to act as an arbiter of whether or not these rights had been violated. As discussed in Chapter 5, Nike and the other TNCs in the FLA are also reluctant to offer financial incentives to suppliers who comply with the FLA code; the FLA's regulatory system instead relies on threats to end the business relationship. These cases

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[211] As noted in Chapter 3, in some cases union leaders I interviewed were happy for the factories to be named publicly, while in others they were willing for them to be named in correspondence with sports brands, but not in public documents.

demonstrate that rather than motivating compliance, this punishment-based system can instead motivate suppliers to minimise and avoid the code's requirements.

Factories A and B are both sportshoe factories, and both are owned by the same company. During the research period—from 2000 to 2006—each factory produced primarily for Nike and employed between 3 500 and 6 000 workers.[212] Up until 1998, all workers in these factories were automatically members of SPTSK SPSI.[213] This union split in 1999; with some plant-level unions staying with SPSI and others breaking away to form a new federation which was later named SPN.[214] In Factory A, the SPSI union became part of SPN and in Factory B the SPSI union remained affiliated to SPTSK SPSI. By 1999 another union, Perbupas, had also been legally registered in both factories.[215] In both factories Perbupas was the minority union throughout the research period, representing between 4 per cent and 15 per cent of workers.[216] During the second, third and fourth field trips I conducted for this thesis—in March 2000, July 2001 and January 2002—I interviewed and conducted focus group discussions with Perbupas representatives in both factories.

March 2000 field research trip,
In March 2000, Perbupas officials in both factories told me their employers gave formal recognition to their unions, but informally sought to undermine and destroy them. In Factory A, the Perbupas officials thought their employer's willingness to formally recognise their union resulted from the international campaign targeting Nike. One female Perbupas official from that factory commented:

> Before the international campaign, if the company wants to make regulation, they just make regulation. Now they are afraid, and they discuss it first with the union.[217]

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[212] The number of workers employed in each factory varied considerably over this period.

[213] SPTSK SPSI is the textile, clothing and footwear section of SPSI.

[214] Although this federation was not named SPN until 2003, in this chapter I will refer to it as SPN even when describing events before 2003.

[215] As discussed in Chapter 3, Perbupas is the footwear section of the GSBI union federation.

[216] The number of workers in the PERBUPAS-affiliated unions varied considerably between 2000 and 2006.

[217] Interview with female Perbupas union official from Factory A in Jakarta, Indonesia, 19 Mar. 2000 (audio-tape held on file).

Perbupas at Factory A had a relatively close relationship with international anti-sweatshop campaigners. A Perbupas leader had previously been fired after he lost several fingers in an industrial accident at the factory. In 1999, at the invitation of US labour rights organisations, he had conducted a speaking tour in the US to talk about labour conditions in factories manufacturing Nike products. He was reinstated on his return to Indonesia, a development which Perbupas representatives told me had increased their confidence and resulted in more workers at Factory A joining their minority union.[218]

In both factories, Perbupas representatives alleged supervisors discriminated against their union. They pointed out management of both factories provided SPSI with office space but refused to provide Perbupas with the same facilities. They claimed active Perbupas organisers were regularly moved from one section of the factory to another, so they were always unsettled, always trying to learn new tasks, and always struggling to get to know the workers in each new section. In both factories Perbupas officials alleged factory supervisors subjected the work of active members of their unions to more intense scrutiny and frequently exaggerated small mistakes in order to find fault with their work. In a focus group discussion, Perbupas organisers in Factory B alleged 15 members of their union had been dismissed in the first few months of 2000 on the pretext of their work not being of sufficient quality.[219] In both factories Perbupas officials claimed factory supervisors warned workers that if they took industrial action or told "outsiders" about factory conditions then the factory owner would close the factory and move production elsewhere. A Perbupas organiser from Factory A told me his mother had received an anonymous phone call in September 1999, warning that his life was in danger unless he stopped publicising labour conditions at the factory.[220]

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[218] Focus group discussion with three Perbupas union officials from Factory A in Jakarta, Indonesia, 19 Mar. 2000 (audio-tape held on file). As the quotation which opens this chapter demonstrates, even three years later, Perbupas organisers in Factory A continued to regard this workers' reinstatement as an important development.

[219] Focus group discussion with Perbupas union officials and members from Factory B in Jakarta, Indonesia, 1 Apr. 2000 (audio-tape held on file).

[220] Interview with male union official from Factory A in Jakarta, Indonesia, 19 Mar. 2000 (audio-tape held on file).

At that stage, what the Perbupas union officials had seen of Nike's factory monitoring system gave them little confidence in it. In both factories, Nike's code of conduct was posted on the wall and every worker received a card with a summary of the code. A female union official at Factory A told me that PricewaterhouseCoopers (PwC) visited the factory once a year to conduct a labour audit on behalf of Nike, but that PwC only spoke to factory supervisors, never to workers. She claimed the factory was "cleaned up" before the monitors arrived and workers were warned any negative reports to monitors would lead Nike to cut orders to the factory.[221] A male union official I interviewed from Factory B was only aware of one labour monitoring visit in the three years he had been working in the factory. On that occasion (in 1999) three workers had been interviewed, but factory managers had known which workers were interviewed and had subsequently called up those three workers and questioned them about what they had told the monitors. This union official said few workers would be willing to tell monitors about problems in the factory unless they could do so without their supervisors knowing which workers had been interviewed.[222]

Field trips in July 2001 and January 2002

I wrote about conditions in these two factories in a report released in September 2000, shortly before the Sydney Olympics (OCAA 2000).[223] When I returned to Indonesia in July 2001, Perbupas officials in both factories reported some progress in respect for trade union rights: Perbupas had been given access to the same amount of office space as the majority unions; the practice of constantly moving Perbupas leaders from one section of the factory to another had ceased; and in both factories some of the more experienced Perbupas organisers had received promotions.

Whereas workers in Factory A reported discrimination against their union had ceased, in Factory B there was still a significant problem with dismissal and suspension of Perbupas union members. One of the Perbupas organisers I interviewed in July 2001

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[221] Interview with female Perbupas union official from Factory A in Jakarta, Indonesia, 19 Mar. 2000 (audio-tape held on file).
[222] Interview with male union official from Factory B in Jakarta, Indonesia, 18 Mar. 2000 (audio-tape held on file).
[223] This report was written as part of my work with Oxfam Community Aid Abroad, at that stage I was doing that work in a voluntary capacity.

was in the process of contesting his dismissal in the Central Committee for Labor Dispute Settlements (P4P) at the Indonesian Ministry of Labour.[224] He and 63 workers had been told early in March 2001 that because of a slowdown in orders their work was not currently needed. Although Perbupas was the minority union, Perbupas officials' claimed 45 of the 63 workers laid off at that time were Perbupas members, including four members of the union's board. Although the 63 workers had supposedly been laid off because of a lack of orders, this organiser told me that 30 new workers had been hired during the period in which he had been contesting his dismissal, but the factory still refused to re-employ him.[225] On my third field-trip in January 2002, workers from Perbupas told me in a focus group that this organiser had lost his case at the P4P and had given up his campaign for reinstatement and accepted severance pay because the "road was too long".[226]

Another Perbupas union representative I interviewed in July 2001 had also been suspended from Factory B pending resolution of her appeal to the P4P. She showed me her suspension notices, which accused her of inciting colleagues to break the law. She claimed the factory had falsely accused her of encouraging workers in her line to deliberately make mistakes in protest at the appointment of a new section leader. She confirmed she had concerns about the new section leader, claiming he had a reputation for being authoritarian and treating workers harshly. Although she had made an official complaint about the appointment, however, she denied ever encouraging other workers to make mistakes.[227] With this worker's permission, on behalf of Oxfam Australia I wrote to Nike several times in October and November 2001, requesting the company facilitate an independent investigation of her case by a local human rights organisation, to ensure she had not been unfairly dismissed. Nike declined to arrange an independent

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[224] At the time, the official resolution of labour disputes in Indonesia involved initial mediation by the local Ministry of Labour office. If that mediation failed to resolve the issue, one of the parties to the dispute could appeal to the Ministry's Provincial Committee for Labour Dispute Settlements (P4D). If a party was unhappy with the P4D decision they could appeal to the P4P. Appeals from the P4P are heard by the Indonesian Supreme Court.
[225] Interview with male union official from Factory B in Jakarta, Indonesia, 21 July 2001 (audio-tape held on file).
[226] Focus group discussion with organisers and members of the Perbupas union from Factory B in Jakarta, Indonesia, 19 Jan. 2002 (audio-tape held on file).
[227] Interview with female union official from Factory B in Jakarta, Indonesia, 21 July 2001 (audio-tape held on file).

investigation but indicated Nike staff would investigate.[228] If such an investigation was ever conducted the result was never made public. When I met with Perbupas representatives from Factory B in January 2002 they indicated this worker had also lost her case in the P4P and had given up campaigning for reinstatement, again because "the road was too long".[229]

Unfortunately this meeting in January 2002 was my last direct contact with Perbupas leaders from Factory B. The union branch subsequently disaffiliated from Perbupas,[230] and during my research visits to Indonesia in 2003, 2004, 2005 and 2006 it was not possible to arrange a meeting with the union branch, even though union officials from Perbupas attempted to assist me to arrange such a meeting.

Developments at Factory A between 2003 and 2006

I met with Perbupas union organisers from Factory A on 3 October 2003, as part of my work with Oxfam Australia. They reported the union was still free to operate in the factory, but they had not managed to persuade the factory to raise wages above the legal minimum. During this meeting I asked male Perbupas organisers whether they thought there were any barriers preventing women from participating in unions, and my colleague Bhumika Muchhala separately discussed the same issue with female Perbupas organisers. The male organisers' answers focused on cultural expectations of women's behaviour and identity and the way these limited both women's freedom and their assertiveness, including within the factory. The female organisers also described the impact of cultural expectations of women's position within households, but the female organisers also gave more detail about the challenges they face within workplaces. One said:

> Women have a much harder time than men do in organising. They get yelled at more
> often by the managers, who tend to take their anger out on women more than they do on

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[228] Personal communication (e-mail) from Dusty Kidd of Nike, 8 Oct. 2001 (copy held on file by Oxfam Australia).

[229] Focus group discussion with organisers and members of the Perbupas union from Factory B in Jakarta, Indonesia, 19 Jan. 2002 (audio-tape held on file).

[230] When relations broke down between the GSBI union and the SISBIKUM labour NGO, some union branches who had been in GSBI disaffiliated because they preferred to maintain a close relationship with SISBIKUM. Factory B was one of those branches.

men. Women also get harassed in ways that men don't…There are [also] many things that we fear to the same degree, or perhaps more, than men do, such as: Warning letters, being targeted by the management as a troublemaker or provocateur, being hated by the management and then stigmatised throughout the entire factory as they spread rumours on us and attach labels on us that isolate us from our fellow peers. And of course, there is always the worry of getting dismissed/fired.[231]

I met with Perbupas representatives from Factory A again in December 2004, again as part of my work with Oxfam Australia. They described how in January 2004 they had successfully taken industrial action to win a wage increase. This was a significant change of policy for the union; in the period from 2000 until 2003 they had told me both unions at the factory were wary of taking industrial action in case Nike responded by moving orders to another factory. The successful two-day strike had only involved the 10 per cent of workers who were members of Perbupas; SPN had declined to take part. The Perbupas representatives reported that, two months after the strike, management at Factory A announced all Nike production was moving to Factory B, and that once this transition was complete Factory A would only produce other brands for the domestic Indonesian market. Although factory managers assured them this was purely a business decision, Perbupas union representatives suspected the transfer of Nike production to Factory B was a strategy to undermine their union and break its links with international campaigners. They claimed that in July 2004 there were 700 workers transferred from Factory A to Factory B, and although a number of Perbupas union leaders from Factory A applied to be transferred, all were refused. They further claimed that in October 2004 management approached 64 of the approximately 3 000 workers still employed at Factory A and encouraged them to resign in exchange for severance pay. Those approached included three elected Perbupas' union officials: two members of the union's governing committee and one member of its advisory council. These three refused to resign and were suspended while management sought legal permission from the Ministry of Labour to fire them. The Perbupas union leaders told me they had tried to discuss the issue with factory managers, arguing the process and criteria for deciding

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[231] Focus group discussion with female organisers and members of the Perbupas union at Factory A in Jakarta, Indonesia, 3 Oct. 2003 (transcript held on file). This discussion was facilitated by my colleague Bhumika Muchhala during field research in Indonesia which we conducted jointly for Oxfam International.

which workers were asked to resign should be negotiated with both unions. They said factory management had refused to discuss the issue or to explain the criteria for selecting workers for retrenchment, saying only that the cuts were for reasons of efficiency. The Perbupas union also argued workers who had been pressured to resign from factory A for reasons of efficiency should be offered jobs at Factory B, which had subsequently recruited new workers, but management had refused.

Oxfam Australia wrote to Nike about this case and Nike's Vice President of Corporate Responsibility, Hannah Jones responded on 23 February 2005,[232] indicating:

> Our understanding is that the 53 workers…who accepted the resignation package represent a balanced mix of members from SPN (the leading union), Perbupas, and non-union affiliated. The five workers who initially refused included one SPN member, one Perbupas member, and three Perbupas officials…In a factory employing more than 3 000 people, with two separate unions representing nearly 90 per cent of the workforce, these facts alone do not lead us to a conclusion that violation of freedom of association has taken place… we have not seen nor been presented with evidence that there is a relationship between Perbupas membership and shifts in the workforce …While we hope that the Perbupas leadership and [Factory A] management can resolve these issues through continuing dialogue, if this proves unfeasible, Nike will certainly support a third-party mediation process. For that process to be effective, however, mediation must be led by a neutral, third-party, who is viewed as a credible arbitrator by both parties. Furthermore, where freedom of association is supported by law, as is the case in Indonesia, we believe it is in the best interest of all workers to have local governments build capacity in addressing these issues…We do agree that communication between factory management and the unions would be improved by having all parties agree to a formally articulated criteria for identifying where reductions in workforce will take place, and how those affected will be compensated. To that end, we will encourage both [Factory A] and [Factory B] management to continue engaging with both majority and minority union representatives.

I have quoted this letter extensively because it gives important insights into the way Nike approached its stated commitment, as a member of the FLA, to ensure respect for

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[232] Copy held on file by Oxfam Australia.

workers' right to FOA. The FLA's documents make it clear that transparent procedures for termination should be established in order to minimise the risk of union leaders being discriminated against during periods of retrenchment. The FLA's Annual Report for 2004 (p.232) for example stated:

> In practice, it is often in the exercise of management functions, such as hiring, discipline, and termination, and in the processing of grievances that freedom of association is abused. If a company does not have sound policies and procedures covering those functions, there is a real risk of non-compliance.

If Nike had wanted to minimise the chance of non-compliance with the FLA code, it should therefore have required Factory A to have fair and transparent procedures for deciding which workers were retrenched during a downturn. Had Nike done this, it would have put the onus on the factory to demonstrate that the dismissal of the Perbupas union officials was consistent with these procedures and hence non-discriminatory. Nike did not, however, require the factory to communicate to the union the criteria used to choose which workers were retrenched.[233] Instead, Nike put the onus on Perbupas to prove that discrimination had occurred. Without knowing which criteria had been applied, it was very difficult for Perbupas to prove either that the criteria were themselves discriminatory, or that they had been applied in a discriminatory manner. By allowing the factory to keep the criteria secret, Nike increased the risk of non-compliance.

Jones' letter also suggests that, despite Nike's membership of the FLA, she was uncomfortable with the expectation that Nike should be responsible for determining whether workers' trade union rights had been violated. The initial image of Nike in her letter is that of a judge in an adversarial court, sitting back and weighing the evidence presented by the parties. This is quite different from the role suggested for participating companies in the FLA's documents, which is more akin to the role of a government labour inspector, visiting factories and actively seeking out evidence as to whether they

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[233] Jones' letter does indicate Nike thinks it would improve communication between management and the unions in the factory if they could reach agreement on criteria for workforce reductions. This is a different thing from requiring the factory to have transparent and fair criteria for such reductions.

are in compliance with the FLA code. Jones' image of Nike as a judge assists her to re-frame the issue, not as a human rights issue requiring careful investigation, but rather as a conflict between two parties, a conflict which would be more appropriately resolved by negotiation and, if necessary, mediation. This enables Jones to further distance Nike from responsibility for resolving the problem. She implies Nike is not the right actor to solve this conflict, rather what is needed is "a neutral, third-party, who is viewed as a credible arbitrator". Nike's disinclination to take on the role of arbiter of fact in disputed trade union rights case is considered further in later case studies in this chapter, and in the concluding section.

Like the dismissed Perbupas leaders from Factory B, the three union officials from Factory A eventually accepted severance pay and gave up campaigning for their reinstatement. According to Perbupas, in June 2006 management closed Factory A and dismissed all the workers.[234] The factory was subsequently re-opened, but no members of Perbupas were given jobs, and those workers who were re-employed were put on short-term contracts.[235]

Reebok and trade union rights in Factory C and Spotec in Indonesia, and in Reeboks' distribution centres in the USA

This section presents three case-studies involving Reebok, two in Indonesia and one in the US. This makes it possible to contrast Reebok's approach in different geographical areas and, more importantly, in its directly owned operations as opposed to its suppliers' factories. At least in the two factories in Indonesia, Reebok's compliance staff conscientiously investigated alleged violations of trade union rights and required the factory managers to put in place systems which minimised the risk of non-compliance. While these interventions initially increased workers' space to organise, this increased freedom has not been sustained. In both cases, the role of Reebok's buying practices needs to be carefully considered.

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[234] Personal communication (e-mail) from Mochammad Ali, 9 Aug. 2007 (copy held on file). Ali is coordinator of networking and international relations for the GSBI union in Indonesia.
[235] Personal communication (e-mail) from Rudy HB Damman, 11 Sep. 2007 (copy held on file). Rudy is President of the GSBI union.

Factory C employs approximately 1 500 workers making hats and sports clothes. A colleague, Bhumika Muchhala, and I first met and interviewed workers from the factory in September 2003 and part of research conducted for Oxfam International. There were two unions in the factory, a larger union which had been established by factory management, and a smaller union, affiliated to SPSI, which had been started by workers themselves. Leaders of the SPSI union were experiencing discrimination, but at that stage they asked us not to discuss the situation with Reebok and the other brands which placed orders at the factory. By 2005 they had changed their minds and asked that international groups bring issues at the factory to the attention of those brands. In July 2005 I wrote to Reebok on behalf of Oxfam Australia, asking what steps Reebok had taken to ensure workers were not discriminated against for trade union activity at Factory C.[236] Reebok's reply, sent by the company's Vice President of Human Rights Programs, Doug Cahn, on 10 August 2005 indicated:

> In January 2005, Reebok became aware of allegations of intimidation against the leader of one of the two worker organisations in [Factory C]…Given the seriousness of the allegation, our local human rights field staff immediately began an independent investigation. During this investigation, Reebok perceived a pattern of discrimination related to union membership.[237]

Reebok's letter details examples of the discrimination Reebok found, including offers of money to union leaders in exchange for their resignation, and warning letters provided to union leaders in circumstances in which other workers did not receive warning letters. The letter then states:

> Reebok staff conducted an unannounced audit on April 29 and April 30, 2005, to review the [Factory C] target system and warning letter procedures. The audit included both onsite and offsite worker interviews. Based on interviews and a review of records, Reebok concluded that the [Factory C] system had the potential to be abused because of the absence of clear procedures for determining when to issue warning letters on the basis of

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[236] This letter (copy held on file) was sent as part of the research for an OI report (see OI 2006, pp. 26-9).
[237] Copy held on file by Oxfam Australia.

performance…Many e-mails and phone conversations between Reebok staff and factory management ensued. On May 15, 2005, management submitted to Reebok a set of procedures relating to the use of warning letters for failure to achieve targets…Reebok reviewed the procedures…A detailed review of the inadequacies was communicated to [Factory C] management…During the period of June 23-29, 2005, Reebok continued to work with factory management on improving the factory's disciplinary systems, so as to protect against discrimination of union members…On July 8, 2005, [Factory C] sent a letter regarding the cancellation of the union chair's warning letter…Reebok required a formal letter...When, by July 20, no such letter was issued, Reebok changed the factory's designation to "Not Approved" and received agreement from its sourcing department to hold off on placing new orders. The letter was subsequently delivered…The factory's designation reverted to "Approved" and a new Reebok order that had been pending, was eventually placed with the factory…A host of documentation related to this case, including copies of the board member's resignation letter, warning letters, e-mail communications etc. are available on request.

I have quoted this letter in detail in order to contrast it with Nike's response to allegations of discrimination against union leaders in Factory A. Reebok treated the allegation as a human rights issue which it had a responsibility to investigate, not a conflict between two parties requiring mediation. Rather than putting the onus on the union to prove discrimination had occurred, Reebok conducted a vigorous investigation. Whereas Nike only promised to encourage the development of a transparent procedure for disciplining and dismissing workers, Reebok insisted such a procedure was necessary in order to prevent violations of FOA. In contrast to Nike's vague references to investigating complaints, Reebok offered to provide extensive evidence of its investigations and its resulting discussions with management of the factory. In July 2005, Oxfam Australia employed an independent researcher to conduct three focus group discussions and three individual interviews with members of the SPSI union at Factory C. In these interviews the workers emphasised Reebok had played a very active role in pushing management to respect FOA in the factory (OI 2006, pp. 27-8).

Reebok's compliance staff also made significant efforts to ensure respect for FOA in the case of Spotec, a sportshoe factory which produced exclusively for Reebok. On 24 April

2003 I received an e-mail[238] from Ismett Inoni, the national leader of Perbupas, reporting that a new branch of Perbupas had been established at Spotec, but that violence had been used to intimidate the new union chair and secretary into closing down the new union. On 2 October 2003, I confirmed details of this violence in a focus group discussion with leaders and members of the new Perbupas branch at Spotec.[239] These workers told me that during working hours on 23 April 2003 the Perbupas union chairperson and secretary were asked to go to a particular room in the factory. In that room they found 25 people waiting for them, many of whom were members of a local preman gang.[240] The Perbupas union chairperson and secretary told me they were then attacked with glass bottles—a bottle was broken over the union chairperson's head—and forced to sign a statement saying they no longer wanted a new union. The Perbupas union chairperson also told me that on the five nights following this attack people came to his house at midnight and threatened him with violence, and that at the time a local businessman publicly claimed he could have the union chairperson killed for 100 000 rupiah (US$11.45).[241]

Reebok's investigation suggested members of the local community and not Spotec management were responsible for the attack. Nonetheless in May 2003 Reebok insisted Spotec's managers post a statement in the factory indicating they regarded Perbupas as a legitimate union. Reebok also required Spotec to make office space available to Perbupas, in the same way as it was available to the SPN union in the factory. In the following month, June 2003, Reebok intervened in a planned retrenchment which would have seen two thirds of the 150 members of Perbupas lose their jobs. Following Reebok's intervention only nine members of Perbupas were retrenched. Two of those nine were members of the union's board, however, and five others were section

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[238] Copy held on file by Oxfam Australia.

[239] Apart from the first sentence, all the evidence presented in this paragraph comes from this focus group discussion, held with organisers and members of the Perbupas union at Spotec in Tangerang, Indonesia on 2 October 2003 (audio-tape held on file). I conducted this focus group in my capacity as labour rights advocacy coordinator for Oxfam Australia.

[240] As discussed earlier in the chapter, preman is a Bahasa Indonesia term for someone involved in a violent gang of criminals. In Indonesia such gangs are often employed to dissuade workers from taking industrial action.

[241] This currency conversion was made using the FX Converter currency exchange tool on the OANDA.com web site. This estimate is based on the exchange rate as at 28 April 2003.

coordinators for the union.[242] Unlike its actions in 2005 with Factory C, in this case Reebok did not conduct an assessment of the factory's procedures for deciding which workers were dismissed during periods of retrenchment. Nonetheless, Reebok's various interventions in 2003 ensured that the Perbupas union was able to establish itself and operate relatively freely in the factory.

Although the actions taken by Reebok's human rights staff with regard to Spotec in 2003 and Factory C in 2005 suggest a relatively high level of commitment to trade union rights, other evidence indicates this commitment did not reflect a dominant discourse throughout the company's global operations. Early in 2004, the Teamsters Local Union No. 25 sought the permission of workers at Reebok's distribution centres in Norwood and Stoughton, Massachusetts, to represent them in collective bargaining negotiations. A secret ballot election took place on 15 April 2004, and workers voted against the union's proposal.[243] According to the Teamsters Union, in the lead up to the ballot Reebok management campaigned vigorously against the establishment of the union. According to the Teamsters, workers were, "subject to mandatory meetings with management...anti-union letters and videos...were sent to their homes".[244] In the video which Reebok sent to workers, company representatives make serious allegations against the Teamsters Local No. 25, including that, "This campaign is about one thing — your dues money".[245] In the video a Reebok spokesperson alleges that of the US$4 million that Local No. 25 had collected in dues, only US$1,000 had been spent on union members. In addition to specific criticism of the Local No. 25, the video also makes comments critical of trade unionism more generally. At one point Reebok CEO Paul Fireman appeals to Reebok workers to "say no to the risks of collective bargaining". Such comments sit oddly with Reebok's stated commitment to uphold respect for FOA and collective bargaining and with the efforts of Reebok's compliance staff in Indonesia to persuade Spotec and Factory C to respect these rights.

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[242] Personal Communication (e-mail) from Ismett Inoni, national president of Perbupas, 3 Sept. 2003 (copy held on file).
[243] This is in accordance with the card check process set down in US law.
[244] Letter from James Hoffa of the Teamsters Union to Josh Mailman of the Reebok Human Rights Foundation, 11 Feb. 2005 (copy held on file).
[245] The Teamsters union sent me a copy (held on file) of the video which Reebok distributed to workers at the distribution centres, and in this sentence and the following three sentences I have quoted directly from the video.

Unfortunately, in both Factory C and Spotec workers' efforts to form trade unions and the efforts of Reebok's compliance staff to ensure respect for FOA were ultimately undermined. Reebok was only responsible for 5 per cent of orders at Factory C and in August 2005 the factory owner indicated to Reebok that, as from the beginning of 2006, he no longer wanted Reebok's business. Although Factory C never published its reasons, my communication with Reebok compliance staff at the time made it clear the factory-owner ended the relationship because he didn't want to comply with Reebok's expectations on labour rights.[246] On 1 October 2006, a researcher commissioned by the UK organisation Labour Behind the Label (LBL) met with former workers from Factory C who had been SPSI members. Those workers also told her the factory-owner ended the relationship because Reebok was too insistent on labour rights compliance. The workers also reported that following Reebok's departure from the factory the intimidation of outspoken trade union leaders in the factory increased significantly and the leader of the union was unable to continue working there.[247]

The improved respect for FOA at Spotec was also relatively short-lived, albeit for a different reason. At the end of 2006 Spotec and two other Reebok sport shoe suppliers in Indonesia—Dong Joe and Tong Yang—closed due to financial difficulties, leaving up to 18 000 workers unemployed (*Xinhua* 2006). Dong Joe and Tong Yang had been primarily producing Reebok shoes for 15 years and Spotec, owned by the same company as Dong Joe, had been primarily producing for Reebok since 2001 (MSN 2007, pp. 25-6). The Spotec factory was subsequently purchased by another company, Ching Luh Indonesia. Adidas purchased Reebok in 2006, and Ching Luh Indonesia will produce for Adidas. In a letter to Oxfam Australia dated 4 October 2007,[248] William Anderson, Adidas' Asia Pacific Head of Social and Environmental Affairs, reported that Adidas had successfully encouraged Ching Luh Indonesia to prioritise the re-employment of former Spotec workers, and to ensure that the recruitment process is transparent and non-discriminatory. At the time of writing the factory is yet to re-open,

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[246] Personal communication (e-mail) from Jill Tucker of Reebok, 25 Aug. 2005 (copy held on file).
[247] Personal communication (e-mail) from Sam Maher of Labour Behind the Label, 25 Oct. 2006 (copy held on file).
[248] Copy held on file by Oxfam Australia.

so it is unclear whether this recommendation will be implemented, and whether the unions formerly operating at Spotec will be able to re-establish themselves at Ching Luh Indonesia.

Oxfam Australia publicly expressed concern that Reebok and Adidas' buying practices may have contributed to the closure of Spotec, Dong Joe and Tong Yang, but Adidas denied this, claiming the closures were due to financial mismanagement by the factories themselves (cited in MSN 2007, p. 26).[249] Adidas refused to make its pricing information public, but insisted its prices are in line with market norms (cited MSN 2007, p. 26). In August 2007 Adidas announced a 27 per cent profit increase and, according to *Bloomberg* (2007a), "Adidas said its margin widened as the Reebok acquisition helped the company demand price cuts from suppliers". In November 2007 Adidas announced that in the third quarter its profit had risen a further 22 per cent—an increase which an analyst at HSBC described as "staggering" (*Bloomberg* 2007b). Again Adidas told journalists the profit increase was due to the Reebok purchase allowing the company to negotiate cheaper prices with suppliers (*Bloomberg* 2007b). In the previous month, July 2007, Nike had announced it would be cutting orders to two other Indonesian sport shoe factories, Nasa and Hasi, citing quality issues. These two factories together employed 14 000 workers and had been producing primarily for Nike for more than 18 years. The owner of the two factories claimed that by 2007 Nike was paying 35 per cent less per shoe than it had paid 15 to 18 years before, and that Nike was trying to find new factories which offered even lower prices (*Xinhua* 2007). Like Adidas, Nike refuses to make its pricing information public; making it impossible to prove definitively what role the company's buying practices play in factory closures.[250] However, the above evidence suggests Nike and Adidas' buying practices are at least consistent with the wider industry trend discussed in Chapter 2; where very large retailers and brand-owning companies use market leverage to put significant pressure on their suppliers to produce more quickly and with lower profit margins. It also seems

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[249] William Anderson, Adidas' Head of Social and Environmental Affairs, Asia Pacific, also made this point in a letter to Kelly Dent and Daisy Gardener of Oxfam Australia, dated 4 Oct. 2007 (copy held on file by Oxfam Australia).

[250] In e-mails dated 1 Aug. 2007 and 3 Oct. 2007 (copies held on file) Caitlin Morris of Nike confirmed that Nike will not release pricing information, but suggested price variations at these two factories may reflect variations in styles of shoes made in the factories; greater efficiency in leather cutting; reductions in the price of leather; and general consumer and retail trends and their impact on pricing.

clear that, despite Nike and Adidas' stated commitments to FOA, neither the location of these Indonesian factories in a country which allows workers to form trade unions, nor the fact that in some of the factories workers had organised democratic unions, gave them an advantage in the intense competition for Nike and Adidas' orders.

Adidas and trade union rights in the Panarub factory in Indonesia

This case provides insights into how a TNC's approach to labour rights issues in a particular supplier can change over time. For a time, Adidas was willing to cooperate in an innovative monitoring experiment at Panarub, involving both Adidas' own compliance staff and the WRC. But since October 2005, Adidas has been less willing to rely on the judgment of either the WRC or its own compliance staff. Instead, Adidas has adopted a similar approach to Nike, arguing that in disputes involving alleged violations of trade union rights Adidas is not the appropriate arbiter of fact. As with the previous cases discussed in this chapter, this case also illustrates the limitation of relying on threats to cut orders in order to persuade suppliers to comply with a labour code. I have previously described the history of labour rights issues at Panarub between 2000 and 2006 in several reports written as part of my work with Oxfam Australia (see OCAA et. al. 2002; OI 2006). In this chapter, I focus on the period from 2003 until 2006.

On 1 October 2003, as part of research conducted for Oxfam International, my colleague Bhumika Muchhala conducted a focus group discussion with Perbupas leaders and members at Panarub.[251] At this time the factory was employing 11 500 workers, 30 per cent of whom were employed on short-term contracts. As in Factory A, Perbupas was the minority union in Panarub, with most workers belonging to SPN. Like the Perbupas union at Factory A, Perbupas at Panarub had a history of working with international anti-sweatshop campaigners.[252] In that focus group the leader of Perbupas

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[251] Focus group discussion with organisers and members of the Perbupas union at Panarub in Tangerang, Indonesia, 1 Oct. 2003 (transcript held on file). I conducted this research trip jointly with Ms. Muchhala.
[252] In April 2000, for example, Perbupas union official Ngadinah Binti Abu Mawardi (Ngadinah), was arrested and held in custody for several weeks as a result of her role in a strike at Panarub. Ngadinah was subsequently acquitted of all charges against her (US State Department 2002). In a focus group held on 18 January 2002, she expressed no confidence in the impartiality of the Indonesian court system and told me she was convinced the interest in her case expressed by international labour groups was the main reason for her acquittal (Focus group discussion with organisers and members of the Perbupas union from Panarub in Tangerang, Indonesia, 18 Jan. 2002, audio-tape held on file).

at Panarub, Mochammad Ali, reported that discrimination against Perbupas by factory supervisors continued:

> They scare other workers by warning them that if they join Perbupas they are sure to get fired sooner or later…And then these workers see that Perbupas members get sanctioned, demoted and intimidated more than [SPN] members and non-members…so naturally they feel even more hesitant to join…[253]

At Perbupas' request, during 2003 and 2004 international labour rights groups drew public attention to labour issues at Panarub. In April 2004 a former Panarub worker and Perbupas organiser named Hamdani travelled to Europe to speak about labour issues at Panarub as part of the Play Fair at the Olympics campaign. From September 2002 until May 2004 the Austrian and then the German CCC pursued a complaint against Adidas under the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises. The complaint focused on labour issues at Panarub and another Adidas supplier, Nikomas Gemilang, and was based on research I had conducted in 2001 and 2002.[254] This process was time-consuming for all concerned and did not result in any determination as to whether the complaint was valid.[255] In January 2004 I met with Kitty Potter of Adidas and she proposed an alternative means of assessing the truth of allegations of labour violations at Panarub; she suggested Oxfam Australia and Adidas jointly invite the WRC to investigate. After consultation with the Perbupas union, Oxfam Australia agreed and the WRC accepted the invitation.

The WRC investigation was extensive, involving a review of more than 500 company documents and interviews with approximately 35 management staff and 120 production workers, including representatives of both unions (WRC 2004, p. 2). The WRC's report on the investigation identified a number of violations of Indonesian law and Adidas'

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[253] Ms. Muchhala conducted the focus group session in Bahasa Indonesia and provided this translation based on the tape of the session.

[254] Nikomas Gemilang also produces for Nike.

[255] In May 2004 the German government's National Contact Point (NCP) for the OECD guidelines issued a statement indicating "there are differing views about the facts of the matter which proved impossible to reconcile in the complaints procedure under the OECD Guidelines" (FRG 2004). The German CCC subsequently released a statement expressing disappointment that the "existing role of NCP mediation offered no mechanism to validate the truth or untruth of the evidence presented by the two parties" (CCC 2004b).

code, including systematic discrimination by management against members of Perbupas, and made a number of recommendations for remediation. Both Adidas and Panarub agreed to most of these recommendations, and over the course of 2004 and 2005 almost all of them were implemented (WRC 2006b, p. 1). In August 2005, Oxfam Australia commissioned research interviews with workers at Panarub which confirmed that respect for labour rights in the factory had improved considerably (OI 2006, p. 32). Perbupas union officials reported the Perbupas union had been recognised and provided with office space, and that Hamdani and several other dismissed Perbupas union members had been reinstated. Significantly, the factory was also in the process of offering permanent status to all production line workers who had been on short-term contracts (OI 2006, pp. 32-33).

When those interviews were conducted in August 2005, one recommendation regarding FOA remained to be implemented. The WRC (2004, p. 8) had recommended a union membership verification exercise, on the grounds that Panarub's previous interference in workers' choice of union cast doubt on whether the factory's current union membership records reflected workers' preferences. Workers' official union membership status was important, both because in Indonesia the majority union in a workplace has collective bargaining rights and because Panarub automatically deducts workers' union dues from their salaries and allocates those funds to the appropriate union. Adidas believed any verification process must be agreed to by both unions and put considerable energy into trying to mediate such an agreement, but the SPN union refused to cooperate, insisting a verification process was unnecessary.[256] On 14 April 2005 a "mini-verification" exercise took place involving approximately 350 workers whose union membership was in dispute. The overwhelming majority of workers who participated in this process indicated they wanted to be members of Perbupas, but according to Agatha Schmaedick of the WRC this process was "stopped before all

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[256] Personal communication (letter) from Adidas to Oxfam Australia, 6 Feb. 2006 (copy held on file by Oxfam Australia).

employees that had been selected to participate had been allowed to complete the exercise".[257]

In August 2005, Adidas sought to increase pressure on the two unions to resolve the verification issue by recommending Panarub management suspend the practice of deducting union dues from the monthly payroll until both unions put in place clear and reasonable guidelines for registration and resignation which were acceptable to all parties. Alternatively, Adidas recommended Panarub management update all deduction authorisations, since a significant number of workers were having dues deducted from their pay even though their files did not contain authorisation letters.[258] Both Oxfam Australia and the WRC supported these recommendations, provided all deduction authorisations were updated and not only those where an authorisation letter was missing.[259] The WRC also suggested another way forward, a new Indonesian government regulation establishing procedures for Ministry of Labour officials to verify union membership at a workplace.[260]

Each of these proposals had considerable potential to verify union membership at the factory, but before any of them could be implemented Panarub dismissed the Perbupas union's entire leadership team for events which occurred during a one-day strike on 12 October 2005. SPN had originally also planned to participate in this strike, but shortly before the strike was due to take place SPN negotiated an agreement with management and withdrew from the strike. Adidas (2006a) later described the process on the day of the strike:

> …the union provided the factory management with advanced notice and registered the
> strike with Manpower, indicating that the strike would be held outside the main gates of

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[257] Personal communication (e-mail) from Agatha Schmaedick of the WRC to Kitty Potter of Adidas and Kelly Dent of Oxfam Australia, copied to the author, 13 Sep. 2005 (copy held on file). See also WRC (2006b, p. 5).

[258] Personal communication (e-mail) from Kitty Potter of Adidas to Kelly Dent of Oxfam Australia, copied to the author, 30 Aug. 2005 (copy held on file).

[259] Personal communication (e-mail) from Kelly Dent of Oxfam Australia to Kitty Potter of Adidas, copied to the author, 6 Sep. 2005; Personal communication (e-mail) from Agatha Schmaedick of the WRC to Kitty Potter of Adidas and Kelly Dent of Oxfam Australia, copied to the author, 13 Sep. 2005 (copies held on file).

[260] Personal communication (e-mail) from Agatha Schmaedick of the WRC to Kitty Potter of Adidas and Kelly Dent of Oxfam Australia, copied to the author, 13 Sep. 2005 (copy held on file).

the factory. On the day of the strike, the union mobilised workers (using loud hailers) and sought entry to individual factory buildings to call out the workers. Physical and verbal confrontations occurred with the plant managers on at least two separate occasions, and a fire alarm was set off...The factory management argues that the union's activities inside the factory grounds were unlawful, as they did not take place at the time[261] and place designated in the union's strike notice…[because of] the alleged use of violence, rude behaviour, inciting others to act illegally, damaging company property, and placing themselves and others in danger – the company dismissed 33 workers engaged in the strike.

On 25 November 2005 I visited Panarub as part of my work with Oxfam Australia. Panarub's Human Resources Director, Mr. Chris Lee, gave me a copy of a DVD which had been filmed on the day of the strike. Apart from the issue of the fire alarm—for which all agreed only one worker was responsible—the dismissals seemed to hinge on an event which took place in front of the entrance to one of the factory buildings. In the relevant section of the DVD approximately 40 Perbupas union members stand bunched in a group in front of the entrance, chanting and encouraging workers inside the factory building to come out and join the strike. This part of the footage is shot from outside the building, behind the backs of the Perbupas members. The Perbupas union leaders are not visible, but in a meeting the previous day they had told me they were at the front of the group, trying to negotiate permission to enter the building and call out their members to join the strike. At one point in the DVD there is suddenly a lot of shouting and the Perbupas members surge toward the factory entrance; there is then a minute or two of pushing and shouting before things return to calm. The Perbupas workers involved in the incident had earlier told me this pushing and shouting occurred after one of the union leaders at the front called out that her breasts had been groped by one of the male supervisors standing in the doorway. Lee told me the supervisor had touched the union leaders' breasts by accident when he was holding up his hands to protect himself from the Perbupas organisers who were pushing to get through the door. Irrespective of the cause of the two minutes of pushing and shouting, in the DVD it is only possible to see the actions of the workers standing at the back of the group. Even if their actions in

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[261] The strike notice had indicated that the strike would take place at 7am, but it actually started several hours later.

pushing forward did constitute grounds for dismissal, an issue that was contested, viewing the footage it is hard to see how it justified dismissing 33 of the workers, particularly the union's leaders who were at the front of the group and not visible in the DVD.

With the cooperation of Adidas and management at Panarub, the WRC conducted an investigation and concluded in November 2005 that the workers' dismissal was unlawful:

> …based on the timing of the terminations (which took place just after the employees participated in a legally registered strike), the identity of specific individuals terminated (all key leaders in one of Panarub's two legally registered unions, Perbupas), other circumstances related to the firings such as management's illegal efforts to interfere with workers' exercise of their associational rights through attempts to compel workers not to strike by providing monetary incentives to non-strikers and closing factory doors during the time of the strike (thus violating Article 137 and 144 of Indonesia's Manpower Act No. 13 of 2003), and the lack of any compelling evidence or counter-explanation provided by Panarub for the terminations.(WRC 2006b, p. 2)

Unlike 2004, in this case Adidas declined to give significant weight to the WRC's investigation, or to investigations by Adidas' own compliance staff. Those compliance staff asked Panarub to conduct three separate reviews of the dismissals, and Adidas rejected all three of Panarub's reviews as inadequate in light of Adidas' code and ILO principles (Adidas 2006a).[262] However, Panarub's failure to persuade Adidas' compliance staff that the dismissals complied with Adidas' code did not lead Adidas' to insist on the workers' reinstatement. Instead Adidas (2006a) argued Indonesian legal procedures should determine whether the workers had been wrongfully dismissed.

In January 2006 the Regional Ministry of Labour office recommended all the dismissals be declared legal. The Ministry's P4P Committee endorsed this recommendation one day after receiving it, a turn-around time which the WRC (2006b, p.2) described as

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[262] The third review led to two of the 33 workers being reinstated, but even so Adidas' compliance staff rejected it as inadequate (Adidas 2006a).

"completely unprecedented for Indonesian court processing". The WRC alleged the Ministry of Labour had handled the matter without due process and in a manner which reflected clear bias in favour of Panarub management; Adidas also described the finding as a "surprise" and expressed disappointment that no detailed reasoning for the decision was made available (WRC 2006b, p.2; Adidas 2006a).[263]

Perbupas did not have confidence in the Indonesian court process, and rather than appeal to the Supreme Court it asked the Indonesian government's Human Rights Commission, Komnas HAM, to investigate. Komnas HAM agreed to do so, and in February 2006 Adidas wrote to the commission, indicating support for the investigation and undertaking to act on its findings (Adidas 2006c). Komnas HAM concluded the dismissal of the 33 workers violated both Indonesian law and the workers' human rights (cited in WRC 2006b, p. 4). On the basis of this finding, Adidas called on the factory to reinstate the dismissed workers. Panarub management refused, arguing Komnas HAM did not have jurisdiction over labour issues and that if the workers disputed the decision they should appeal to the Supreme Court. For a time, Adidas seemed to give weight to Panarub management's arguments; on 28 June 2006 Adidas issued a public statement which, among other things, suggested "important questions" had been raised about "the intent and authority of the Komnas HAM's findings" and the "viability and possibility of appeal" (Adidas 2006b). During the period between May and September 2006, Oxfam International publicly campaigned to persuade Adidas to insist on the workers' reinstatement (see *BBC* 2006a; *Financial Times Deutschland* 2006; *La Vanguardia* 2006; *RTE News* 2006; *Sunday Tribune* 2006a, 2006b, 2006c; *The Guardian* 2006; *The Independent* 2006). In July 2006 the WRC (2006b) also called on Adidas to "fully and unequivocally [issue] a message to management that the 33 Perbupas leaders must be immediately reinstated".

As part of my work with Oxfam Australia, I again visited Panarub to meet with Lee on 7 August 2006. He made it clear Panarub's managers regarded the Indonesian government as the sole legitimate arbiter of labour rights issues in Indonesia; they did

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[263] Personal communication (e-mail) from Kitty Potter of Adidas, 1 Mar. 2006 (copy held on file by Oxfam Australia).

not give weight to the international labour standards included in the FLA code and Adidas' code. Lee insisted that, unless there was a legal decision in favour of the dismissed workers by the appropriate government body—that is, the Ministry of Labour or the Supreme Court, not Komnas Ham—Panarub would not reinstate the workers, even if Adidas made further orders conditional on the workers' reinstatement. He said that, in the absence of a legal directive, Panarub's owner would rather close the factory than reinstate the dismissed union leaders. Lee told me Panarub management had no choice but to take this position. He claimed Panarub management had obligations to its stakeholders, which included an obligation to its supervisory staff to maintain order in the factory, and an obligation to other factory suppliers who had publicly supported Panarub management's decision to follow Indonesian legal processes.[264]

Fairclough (2003, pp. 145-66; 2006, pp. 50-4) points out that the extent to which actors are represented as active or passive in influential texts helps shape how those actors are perceived by audiences. Panarub managers' efforts to present themselves as passive— bound by their obligations to their stakeholders to follow the decisions of the Indonesian legal system—was part of a wider strategy to make other actors seem responsible for the possibility of factory closure. During a meeting on 30 July 2006,[265] the dismissed Perbupas leaders told me this strategy was discrediting Perbupas among workers in the factory, by making it appear as if the Perbupas leaders were selfishly willing to risk the jobs of all workers at the factory in order to get their own jobs back. In our meeting on 7 August 2006, Chris Lee similarly suggested that Oxfam Australia was putting the jobs of all Panarub workers at risk by continuing to push Adidas on the issue of the union leaders' reinstatement. This argument also had an impact on Adidas. In a letter to Panarub management which Adidas published on its web site, Adidas (2006c) noted its usual practice was to "issue warning letters and if they are not heeded, to terminate business with our suppliers", but that it had decided not to do so in this case because of the danger that more than 11 000 workers at Panarub would lose their jobs. Instead,

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[264] This paragraph is based both on my notes (held on file) of the meeting with Lee at Panarub on 7 Aug. 2006 and also on Lee's minutes of the meeting, which he e-mailed to me on 8 August 2006 (copy held on file).
[265] I participated in this meeting as part of my work with Oxfam Australia. My notes on the meeting are held on file.

Adidas (2006c) decided to cap all future growth in order levels to Panarub until the issue of the workers' dismissal was satisfactorily resolved.

On 24 August 2006 Adidas wrote to both Panarub management and Perbupas, asking them to take part in a formal arbitration process (Adidas 2006c). Perbupas' leaders agreed to the proposal but Panarub management refused and continued to insist that Indonesian legal processes be followed. Panarub management's continued refusal to reinstate the dismissed union leaders occurred in the context of Adidas' decision, in mid-2006, to significantly reduce orders to the factory on the grounds that it was falling behind other Adidas suppliers on Key Performance Indicators relating to quality, delivery times and leadership (Adidas 2006b). Adidas shared the relevant data during meetings with the WRC, and on the basis of those discussions the WRC concluded that:

> …code compliance is, for all intents and purposes, not a factor in Adidas's decisions about where to source their products. Top Adidas representatives stated clearly that, "business decisions cannot be driven by compliance performance." (WRC 2006b, p. 5)

The WRC (2006b) called on Adidas to offer to reinstate orders to previous levels if Panarub management reinstated the dismissed workers, a request Adidas declined. The WRC (2006b, p. 6) also claimed it had "received credible information" that Adidas had asked the factory to take a 3 per cent price cut the following year. The WRC (2006b, p. 6) called on Adidas to send a clear message to Panarub that if the dismissed workers were reinstated Adidas would "pay a price adequate to meet the costs of full code compliance", including possible wage increases associated with industrial action by unions at the factory. In response, Adidas refused to make the pricing information public, but insisted price had not been a factor in the decision to reduce orders at Panarub. Adidas also insisted it takes account of any wage increases when negotiating prices and does not punish factories for increasing workers' wages.[266]

It is less clear whether Adidas takes into account the possible impact of trade union activity on factories' ability to meet Adidas' performance indicators in relation to

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[266] Personal communication (e-mail) from William Anderson of Adidas to Agatha Schmaedick of the WRC, copied to the author, 7 July 2006 (copy held on file).

delivery deadlines. Throughout the dispute Panarub management refused to publicly draw any connection between Adidas' buying practices and the factory's refusal to reinstate the Perbupas union leaders. However, when I visited the factory on 25 November 2005, Mr. Lee showed me a slide show which described how Perbupas had held one one-day strike in each of the three preceding years, a level of industrial action which he clearly regarded as excessive and unreasonable. On 5 August 2006 a worker from Panarub who was a member of the SPN union, but not an official in the union, participated in a group discussion I was holding with workers from another factory as part of my work with Oxfam Australia. She told me that following the dismissal of Perbupas leaders in October 2005 there had been an increase in the intensity of pressure on workers to work quickly and that it had become much more difficult to take sick leave, even with a doctor's certificate. Perbupas members still employed at Panarub had made the same point to me in a meeting on 31 July 2006.[267] While it is impossible to prove that Panarub management dismissed the Perbupas leaders in order to make it easier to increase the intensity of work at the factory, this is at least a coherent explanation of why Panarub management was so determined not to reinstate the dismissed Perbupas leaders.

Panarub continued to refuse to cooperate in a process of arbitration and in January 2007, 15 months after their dismissal, the fired workers gave up campaigning for reinstatement and took severance packages. Since then Adidas has treated the negotiated agreement which resulted in the severance payments as the end of the matter. Oxfam Australia has called on Adidas to assist the dismissed workers to find jobs in other Adidas' suppliers, but Adidas has promised only to ensure the workers dismissed from Panarub—and the 18 000 other workers who recently lost their jobs at Spotec, Dong Joe and Tong Yang—are not discriminated against in applying for jobs with other Adidas suppliers.[268] The Indonesian Human Rights Commission's finding that the dismissal of the Perbupas workers from Panarub amounted to a violation of their human rights has

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[267] I attended both the meetings described in this paragraph as part of my work with Oxfam Australia. My notes on the meetings are held on file.
[268] Adidas invited the former Panarub workers to participate in a job placement program which Adidas established following the closure of Spotec, Dong Joe and Tong Yang (Personal communication, letters, from William Anderson of Adidas to Kelly Dent and Daisy Gardener of Oxfam Australia, 22 June 2007 and 4 Oct. 2007, copies held on file by Oxfam Australia).

not led Adidas to give these workers any greater priority than the many thousands of workers dismissed as a result of factory closures.

In 2007, the Perbupas union re-formed at Panarub with new leaders. In a letter to Oxfam Australia dated 4 Oct. 2007,[269] William Anderson of Adidas reported that Panarub management and both unions at the factory had agreed that a process to verify union membership should take place. He expected the Indonesian Department of Labour to conduct a membership verification exercise at the factory before the end of 2007.

Nike, the FLA and trade union rights in the Jaqalanka factory in Sri Lanka and the MSP sportswear factory in Thailand

My final two case-studies involve the operation of the FLA's third-party complaint procedure in factories producing for Nike. This allows an assessment of how the FLA's direct involvement in cases can influence a participating TNC's actions. The first case involves Jaqalanka Ltd. (Jaqalanka), a factory located in the Katunayake free trade zone (FTZ) in Sri Lanka and which employs approximately 400 workers producing for a number of major international brands, including Nike, Columbia and VF Corporation.

In April 2003 a group of Jaqalanka employees attempted to form a union with the support of the Free Trade Zones and General Services Employees Union (FTZGSEU).[270] The FTZGSEU claimed 220 workers had joined the union and that therefore Jaqalanka was legally obliged to recognise and negotiate with it. Jaqalanka disputed the number of union members and eventually it was agreed to hold a referendum to resolve the issue. The referendum was held on 9 July 2003, but only 4 per cent of Jaqalanka employees registered votes. The FTZGSEU claimed this low turn out resulted from the intimidatory tactics employed by Jaqalanka managers, an allegation supported by representatives of the American Centre for International Labour Solidarity (ACILS) who had attended the referendum as observers (FLA 2004, p. 258; *Asian Labour Update* 2003).

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[269] Copy held on file by Oxfam Australia.
[270] In 2003 this union was known as the Free Trade Zone Workers Union (FTZWU). It merged with another union in 2004 to form the FTZGSEU. In order to avoid confusion I will refer to it as the FTZGSEU throughout this case-study.

In September 2003 the General Secretary of the FTZGSEU, Anton Marcus, gave examples of this alleged intimidation in an article published in the *Asian Labour Update* (2003). According to Marcus, managers and supervisory staff at the factory had used mocking and abusive language toward known supporters of the union; threatened to close the factory if the union was established; threatened to dismiss union representatives; and claimed Nike was going to cut all orders to the factory because workers had made negative reports to Nike auditors. Marcus also claimed one manager had threatened to physically assault the union branch secretary with a knife if the factory closed as a result of the union's activities (*Asian Labour Update* 2003). Marcus also claimed Jaqalanka had enlisted thugs to frighten and intimidate workers: the union branch secretary had been assaulted by five unknown men after he attended a union meeting and a female member of the union had been warned by four unknown men that she would be killed if she did not resign from the union (*Asian Labour Update* 2003). On 12 October 2003, Jaqalanka's joint managing director, Daniel Ortiz, denied these allegations in an interview published in the *Sunday Observer* (cited in OI 2006, p. 23).

Marcus also argued the Sri Lankan government had failed to act to protect FOA in the factory. He alleged the Director General of the Sri Lankan Government's Board of Investment, Mr Arjuna Mahendran, had visited the factory in May and encouraged workers to resign from the union (*Asian Labour Update* 2003). Mahendran later denied this, although he did admit he supported the Employee's Council at the factory (OI 2006, pp. 22-3). At the time the Employee's Council was competing with the union for the role of legitimate representative of workers' interests at Jaqalanka (OI 2006, pp. 22-3). Marcus also alleged the Sri Lankan Department of Labour had been very slow to investigate allegations of FOA violations at the factory (*Asian Labour Update* 2003). The Department of Labour subsequently established a committee to investigate and that committee declared it could find no evidence of misconduct by Jaqalanka (cited in FLA 2004, p. 258).

The FTZGSEU used a variety of international strategies in their campaign to get FOA respected at Jaqalanka. At the FTZGSEU's request, the ITGLWF filed a complaint with the ILO regarding the manner in which the Sri Lankan government had handled the case

(ITGLWF 2003). With ACILS' assistance, the union also lodged petitions with the European Union and the US government, asking that the granting of trade preferences to Sri Lanka under the generalised system of preferences (GSP) be contingent on remedying violations of core labour rights at Jaqalanka and other factories. The trade benefits granted to Sri Lanka under the GSP are important to Sri Lanka's garment industry and hence these petitions were highly controversial.[271] At the request of the FTZGSEU, the CCC and other international campaign organisations reported the allegations of anti-union intimidation at Jaqalanka on their web sites and launched a letter-writing campaign, asking supporters to write to Sri Lankan authorities, Jaqalanka, Nike, Columbia and VF Corporation (see for example CCC 2003).

In an e-mail sent to labour organisations on 3 September 2003,[272] Nike's vice president for compliance, Dusty Kidd, reported Nike's compliance staff had visited the factory and interviewed workers, and that Nike had emphasised its "commitment to workers' rights to vote on representation" to Jaqalanka management, the Sri Lankan Board of Investment, and the Department of Labor. Kidd did not, however, indicate whether Nike's investigation had confirmed allegations of anti-union intimidation, nor whether Nike had offered any inducement or threatened any negative consequences toward Jaqalanka in order to persuade the factory to respect FOA. Rather than relying on its own investigations, Kidd reported that Nike had lodged a third-party complaint regarding Jaqalanka with the FLA.

Rather than making findings of fact and recommendations for remediation, the FLA responded to the complaint through a process of mediation. The FLA's 2004 (p. 257) Annual Report describes the process:

> …after investigating the situation, the FLA contacted the parties to the dispute with a
> proposal for an amicable, non-confrontational resolution of the issue. The FLA
> convened a roundtable discussion in coordination with the Centre for Policy

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[271] Personal communication (phone call) with Kelly Dent, 7 Aug. 2007 (my notes, and Dent's subsequent e-mail granting permission to cite her in this way, are held on file). In 2003 Dent was coordinator of TIE Asia, based in Columbo in the same office as the FTZGSEU. During 2003 Dent worked intensively on the Jaqalanka case on behalf of TIE Asia.
[272] Copy held on file by Oxfam Australia.

Alternatives (CPA), a respected local NGO in Sri Lanka…After days of negotiation, the union and management reached an agreement…Management…agreed that no workers or union members would be harassed, victimised, discriminated against, or otherwise subjected to any unfair labor practices for any reason. In return, the [FTZGSEU] agreed to call off the international solidarity campaign that had been waged against the factory, and to suspend the complaints lodged with the ILO… At the review meeting in June 2004, all parties concerned confirmed that the agreement had been implemented in good faith and that the third party complaint could be closed.

Nike played an active role in this process. A number of senior Nike compliance staff flew to Sri Lanka to assist the FLA, including the company's South Asia compliance manager, based in Bangalore; regional compliance director, based in Bangkok; and vice-president for compliance, based in the US. In an e-mail to Oxfam Australia dated 30 January 2006,[273] Kidd noted that, for the Jaqalanka case:

…Nike engaged with every stakeholder group numerous times, with people based in Sri Lanka, India, Thailand and the United States, including numerous in-person and telephone conversations with factory management about its obligations to support the workers' rights…

On 21 July 2005, my colleague Kelly Dent interviewed Marcus about Jaqalanka for an Oxfam International report. He confirmed the factory was still fully respecting workers' right to FOA, but noted it was proving difficult for workers to negotiate a CBA which included a wage rise. He suspected Nike, Columbia and other buyers were paying such low prices that it was difficult for Jaqalanka to afford a pay rise, and he suggested it would be helpful if Nike and the other companies shared pricing information with the union (OI 2006, p. 24). As noted previously, Nike and other sports brands refuse to share this information.

The FLA also used mediation in 2005 as part of its response to a FOA complaint regarding the MSP Sportswear factory in Thailand. Detailed accounts of this case are included in the FLA's public reports for 2005 (pp. 279-81) and 2006 (FLA 2006b, pp.

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[273] Copy held on file by Oxfam Australia.

23-5).[274] Workers at MSP Sportswear formed a union at the factory in October 2004 and held a union leadership election on 23 October. Several days later MSP Sportswear management dismissed three of the union's leaders, including the newly elected president and general secretary (FLA 2006b, p. 24). According to Somyot Pruksakasumsek of the Centre for Information, Services and Training (CLIST), a labour NGO which was providing support to the union, factory managers also harassed the remaining members of the union's executive and made it impossible for the union to function.[275]

In the period from December 2004 until February 2005, CLIST, CCC, Oxfam Australia and other international labour rights groups made public statements alleging Nike's code of conduct had been violated and calling on Nike to investigate and insist on the worker's reinstatement (see CCC 2005c, OA 2005). On 19 January 2005, Kidd wrote to Oxfam Australia[276] arguing that:

> Unravelling and resolving the underlying issues in these types of cases requires the involvement of neutral, third-party organisations. As a buyer in the MSP factory, Nike is not an appropriate mediator in the dispute. Furthermore, where freedom of association is supported by law, as is the case in Thailand, we believe it is in the best interest of all workers to have local governments build capacity in addressing these issues…

Although Nike did not regard itself as an appropriate mediator, it clearly believed the FLA could play that role. Kidd wrote again to Oxfam Australia on 15 March 2005:[277]

> In conversations in December, Nike suggested as one path forward that workers might file a third-party grievance with the FLA, and further suggested this is an especially helpful step when workers have concerns about local due process. Nike was informed that a third-party complaint was filed on January 12…we have agreed with the Fair Labor Association that if the TLRC is unable to reach a verdict by next week, the FLA should

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[274] See also OI (2006, pp. 43-5).
[275] Interview with Somyot Pruksakasumsek of CLIST in Bangkok, Thailand, 8 Oct. 2005 (notes held on file). I conducted this interview as part of research for an OI report (OI 2006, pp. 43-5).
[276] Copy held on file by Oxfam Australia.
[277] Copy held on file by Oxfam Australia.

proceed to identify a new local mediator: one that is acknowledged by both CLIST and MSP management as an appropriately neutral body…

As it happened, in March 2005 the Thai Labour Review Committee (TLRC) decided the workers should be reinstated. In a 30 January 2006 letter to Oxfam Australia,[278] Kidd suggested the Committee's decision vindicated Nike's approach:

> …we…believe a short-term fix (i.e., buyer orders factory to reinstate workers) does nothing to build the capacity for local institutions to solve issues fairly. In the case of MSP, the Thai Labor Review Committee ultimately reached the right conclusion…My hope is that when another issue such as this arises in Thailand, the TLRC may be emboldened to undertake a careful review and render a fair decision again because they have been allowed to do so in this case.

Following the TLRC's decision, at Nike's request the FLA facilitated the negotiation of a union recognition agreement at the factory (FLA 2006b, p. 24). The FLA appointed Professor Lae Dilokvidharat of Chulalongkorn University, to act as an Ombudsperson and oversee the agreement's implementation. Professor Lae is highly respected within the Thai labour movement, and the union and its supporters were very happy with his appointment.[279] As noted in the FLA's 2006 annual report:

> From March 2005 through January 2006, Dr. Lae and the FLA facilitated meetings with all constituents every six weeks to review progress at the facility. Since one of the major concerns related to disciplinary practices, FLA and NIKE worked with the factory management to restructure grievance and disciplinary policy and procedures. In addition, the factory revised the performance evaluation system and adjusted the wage calculation system to motivate the workers to improve their performance… According to Professor Lae, the case is an example of best practice related to reinstatement (FLA 2006b, p. 24)

Analysis and Conclusion

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[278] Copy held on file by Oxfam Australia.
[279] Interview with Somyot Pruksakasumsek of CLIST, 8 Oct. 2005 (notes held on file). I conducted this interview as part of research for an Oxfam International report (OI 2006, pp. 43-5).

Chapter 2 reviewed the literature on trade union organisation in the global clothing and footwear industry and concluded that the barriers to organising are formidable. The case-studies in this chapter do nothing to undermine this proposition; the union organisers involved in these cases variously faced harassment, stigmatisation, social isolation, violence and dismissal. Women, who make up the overwhelming majority of workers in all of the workplaces considered, face particular difficulties if they want to become active in unions. For Indonesian women, social and cultural expectations limit the time they have available for organising; their freedom to travel at night to attend meetings; and for some married women, even their freedom to choose whether they take part in organising. Women organisers from Factory A also reported that women who choose to take on trade union roles have to cope with more intense verbal abuse and harassment than their male counterparts.

The history of Suharto's manipulation of trade unionism means that, in Indonesia, workers seeking to set up new trade unions in sport shoe factories continue to face an additional challenge. Most footwear factories established in Indonesia during the Suharto regime were organised by SPSI, and workers seeking to set up new trade unions have to compete with these legacy unions. These SPSI—and former SPSI—unions are not necessarily undemocratic; in several factories considered in this chapter, representatives of the more recently established Perbupas union reported that since 1998 the legacy unions in their factories have undergone democratic reform and that the plant-level leaders of the legacy unions have become more responsive to their members' needs. A greater responsiveness to the needs of members does not, however, necessarily equate to willingness to respect members' right to change unions. In the Panarub case, for example, the legacy union has resisted measures which would have made it easier for workers to freely choose the union to which they belong.

As discussed in Chapter 2, however, it is the mobility of capital in the global footwear and apparel industry which represents the most significant barrier to union organising and industrial action. Drawing attention to this mobility continues to be a highly effective means for factory managers to suppress and control dissent. With the possible exception of MSP Sportswear, the threat of loss of orders, or of factory closure, played

a significant role in all of the cases considered in this chapter. Factory managers at both Jaqalanka and Factory B warned workers that negative reports about factory conditions would lead Nike to cut orders. At Panarub, management threatened to close the factory rather than reinstate the dismissed union leaders, and Adidas significantly cut orders to Panarub, generating considerable anxiety among Panarub workers that Adidas may be planning to cut orders altogether.[280] Whatever the causes of the closure of Spotec and Factory A, that closure very effectively brought the independent union branches in those factories to an end.

Unlike workers in Vietnam and China, workers in Indonesia, Thailand and Sri Lanka at least have the legal right to form independent trade unions. However, the trade unions and labour rights NGOs involved in the cases considered in this chapter have little confidence in their governments' procedures for enforcing these rights. These groups have found that corruption and bias in favour of business interests is common among government and judicial officials, and that using government procedures to secure trade union rights is a time-consuming and highly unpredictable process. These workers are not alone in expressing such concerns. The US State Department's (2007) most recent report on human rights practices in Indonesia indicated that during 2006 corruption remained "widespread…throughout the legal system" and that bribes continued to influence "prosecution, conviction, and sentencing in countless civil and criminal cases" (see also Hainsworth 2007; *The Jakarta Post* 2006b). According to the "race to the bottom" perspective, it is the intense competition for productive investment which forces states to minimise the legal protection of labour rights. As discussed in Chapter 2, this explanation is too simple. While competition for investment has some influence, regulatory regimes in countries producing sportswear also vary considerably based on the history and politics of each of those countries. Nonetheless in most of these countries, including Indonesia, states' laws and procedures for protecting trade union rights currently have serious limitations. In this context, the FLA's voluntary regulatory system offers some workers an additional means of seeking redress.

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[280] The Perbupas leaders who had been dismissed from Panarub told me this during a meeting in Tangerang, Indonesia on 30 July 2006 (notes held on file) I participated in this meeting as part of my work with Oxfam Australia.

Investigating respect for trade union rights

This section will consider the FLA's process for investigating whether or not rules are being broken, and the next will consider the process for persuading rule-breakers to conform to rules in future. It is important to acknowledge that in each of the cases considered in this chapter the union organisers were working with international anti-sweatshop groups to pressure the sportswear TNCs to uphold their codes of conduct. In this respect these cases are exceptional; only a minority of the world's sportswear workers are in communication with international labour rights groups, and it is likely the great majority of FOA violations in sportswear workplaces occur without receiving any international attention. Assuming sportswear TNCs are sensitive to how anti-sweatshop groups perceive and portray the TNC's labour practices, these cases therefore probably represent the best-case scenario for the FLA's regulatory system. If it doesn't work under the spotlight of international campaigns, then it is unlikely to work in other circumstances.

Reebok

Notwithstanding this proviso, Reebok's investigations of trade union discrimination in Factory C in 2005, and to a lesser extent in Spotec in 2003, conform closely with the expectations in the FLA's charter document and other FLA texts. In both cases Reebok's labour compliance staff treated allegations of discrimination against trade union leaders as a human rights issue and rigorously investigated whether such discrimination had occurred. With regard to Factory C, Reebok insisted management introduce transparent and fair processes for discipline and retrenchment in order to minimise the possibility of anti-union discrimination. In the Spotec case, Reebok did not require transparent procedures for retrenchment, but nonetheless promptly and carefully investigated allegations of violence against trade union leaders and discrimination against trade union members. In Spotec, Reebok's actions helped create space for a trade union to become established in what was otherwise an extremely hostile environment. Nor were Factory C and Spotec isolated cases. Between 2000 and 2006, during the course of my campaign work for Oxfam Australia, I regularly received reports from labour activists based in Asia indicating Reebok took labour rights more seriously than other sports brands, and that Reebok tended to go further than other

sports brands in pushing suppliers to respect those rights. The provision of training in election procedures to Chinese workers, discussed in Chapter 5, is an example of this tendency.

The extent to which human rights concepts and values were incorporated into the order of discourse operating within Reebok up until 2006—when Reebok was purchased by Adidas—is a more complicated question, and one which would benefit from further research. Certainly, the term "human rights" featured prominently in Reebok's public description of its labour rights programs. Whereas in Nike the staff who conduct labour rights monitoring belong to the "compliance" section, and in Adidas' the corresponding section is known as the "Social and Environmental Affairs team", in Reebok these employees were part of Reebok's "human rights" staff. The human rights section of Reebok's (N.D., b) web site claimed that "Standing up for human rights is a Reebok hallmark—as much a part of our corporate culture and identity as our products". The same site traced Reebok's interest in human rights back to 1998, well before anti-sweatshop campaigns became front-page news:

> In 1988, Amnesty International invited Reebok to be the sponsor of its Human Rights Now! World Tour. That tour, which featured artists Peter Gabriel, Bruce Springsteen, Sting, Tracy Chapman, and Youssou N'Dour, carried messages of freedom and justice to millions of people in 23 cities on four continents. That experience inspired us to place human rights at the center of our corporate culture…Since then, we have become a leader in incorporating human rights into our business practices and making it an integral part of our corporate identity. (Reebok N.D., a).

Some labour activists and journalists interpreted these statements and programs as nothing more than exercises in public relations (*Los Angeles Times* 2002). Recognising more research is needed, my view is that the human rights narratives on Reebok's web site were not the essential statement of Reebok's corporate identity which they purport to be, but neither were they entirely divorced from the internal discourses which influenced the company's labour practices. It is likely that through the Amnesty tour and other processes, human rights concepts gained some, not inconsiderable, discursive weight within Reebok. I interpret the available evidence as indicating that some of the

company's human rights staff were able to use the importance attached to these concepts to gain a mandate to investigate more rigorously whether Reebok suppliers were respecting labour rights.

There is no evidence, however, that Reebok sought to reform its buying practices in order to share any of the costs associated with improving labour conditions. Reebok's opposition to efforts by the Teamsters Union to organise Reebok's distribution centres in Massachusetts in 2004 also indicates the human rights approach to labour standards which Reebok's human rights staff applied in Asia was by no means consistently applied across all of Reebok's operations. Those distribution centres are strategically important nodes in Reebok's supply process, and industrial action in one or both of those centres could have caused the company significant economic loss. Reebok's resistance to allowing these centres to be organised is evidence that, within Reebok, human rights discourses did not establish precedence over or equality with the company's overriding commitment to maximising accumulation.

Adidas and Nike

That said, at least in the cases considered in this chapter, Reebok was more willing to make definitive judgments regarding alleged violations of trade union rights than either Adidas or Nike. In line with the FLA charter, both Adidas and Nike have internal compliance programs and their staff visit factories and investigate whether the companies' codes of conduct are being respected. To a certain extent, this monitoring includes the trade union rights in the FLA code. In the cases considered in this chapter Nike and Adidas insisted their suppliers meet and negotiate with all legally registered unions representing their employees. Nike and Adidas also intervened to prevent certain kinds of discrimination on the basis of union affiliation.[281] In cases where there were two unions representing members in a particular workplace, Nike and Adidas also stopped some forms of discrimination between the unions, for example by insisting that privileges such as office space cannot be granted to one union in a factory and not the other. However, in most of the cases considered in this chapter—notably Factory A,

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[281] In some of these cases Nike and Adidas acted to prevent discrimination regarding promotion, and also to prevent factory management from constantly moving union leaders from section to section in a factory.

Factory B, Panarub, MSP Sportswear and Jaqalanka—either Adidas or Nike refused to make definitive judgements about at least one other alleged violation of FOA. Instead, in these cases either Nike or Adidas insisted the appropriate means for determining whether trade union rights had been violated lay either with local legal processes, or else with the FLA's third-party complaint procedure.

Neither brand has clearly delineated which kinds of FOA violations they are unwilling to make judgments about, but it appears to depend on whether the facts of the case are disputed.[282] In the MSP case, Nike refused to investigate whether the dismissal of particular union members amounted to anti-union discrimination. This was the same issue which either Nike or Adidas refused to make a judgement about in three of the other cases: Factory A, Factory B and Panarub. Whereas it is relatively straightforward to ascertain that one union has been given office space and the other has not, or that a union leader has been moved to a new section of the factory every two weeks, it can be more complicated to assess why a union leader has been dismissed and whether the dismissal amounts to anti-union discrimination. In the Jaqalanka case Nike refused to make a determination as to whether factory management had been harassing and intimidating workers in order to dissuade them from organising—another issue which would have required careful examination. It is only in trade union rights cases, however, that Nike and Adidas seem to make this distinction. Alleged violations of other labour standards in the FLA code, such as harassment and abuse, can also require careful investigative work, but so far it is only in FOA cases that Nike and Adidas have refused to rely on their own investigations.

In his 19 January 2005 letter to Oxfam Australia,[283] Kidd justified Nike's reluctance to take on the role of "unravelling and resolving the underlying issues" in the MSP case on the grounds that such investigative work should be done by "neutral, third-party organisations". Kidd's argument draws on the logic of public interest regulation theory, which holds that regulatory decisions should be made by independent organisations.

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[282] In an e-mail dated 3 Oct. 2007 (copy held on file), Caitlin Morris of Nike responded to an earlier draft of this chapter by commenting that Nike has taken a "much stronger stance with factory management" on trade union rights violations in other cases, not considered in this chapter, where "we felt the facts were less in dispute".
[283] Copy held on file by Oxfam Australia.

While such arguments no doubt resonate with labour activists who support this theoretical perspective, from Nike's point of view it is a curious discursive strategy. The same argument, that labour rights violations need to be investigated by independent organisations, could be applied to undermine the credibility of Nike's entire labour rights program—and that of the FLA. Kidd's argument begs the question, if Nike is not independent enough to credibly investigate trade union rights, how can it monitor compliance with the other labour standards in its code, such as those relating to working hours, wages, forced labour or child labour? Adidas and Nike's argument that local government processes should be relied upon to resolve FOA issues is also consistent with public interest regulatory theory, but at odds with the FLA's regulatory system. If this argument was used for all aspects of the FLA code, then the code would be of no more than symbolic value, since workers employed by FLA companies would have no greater capacity to get their rights respected than any other workers. Throughout the FLA documents the FLA code and monitoring system is represented as one which operates in addition to local legal systems. There is nothing in the FLA's charter which distinguishes FOA allegations from other code violations, or indicates that in such cases participating companies have no responsibility to directly monitor code compliance and can instead leave determinations of fact to local authorities.

During the course of these cases, labour activists have put this argument to Nike and Adidas: that in refusing to make definitive judgments regarding FOA issues they were breaching the commitments they had made to the FLA. We also submitted that there are problems with corruption in many Asian legal systems, problems which make it difficult for workers to use those systems to get their trade union rights respected. Nike's response was that allowing local government processes to resolve FOA issues helps to "build the capacity for local institutions to solve issues fairly". Kidd, for example, expressed the hope that, following its decision in the MSP case, in future cases the Thai Labour Review Committee "may be emboldened to undertake a careful review and render a fair decision again because they have been allowed to do so in this case".[284] This is a strange argument; local industrial relations systems in Indonesia,

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[284] The quotations in the sentence and the previous one are from the letter which Nike's Dusty Kidd sent to Oxfam Australia on 30 Jan. 2006 (copy held on file by Oxfam Australia).

Thailand and Sri Lanka deal with many hundreds, if not thousands, of cases each year. It is far from clear what makes cases involving Nike's suppliers different, such that processing the Nike cases somehow builds a local legal system's capacity for fairness in a way that the hundreds of other cases do not.

Adidas provided a different response. This is from the company's web site:

> …the International NGOs monitoring this case [Panarub] expressed concern that the Indonesian Manpower Department is unreliable and subject to corruption. As a basic business philosophy, adidas strongly believes that due legal process should be followed and supported…(Adidas 2006a)

Here Adidas avoids the question of whether corruption is a problem within Indonesian government procedures, and instead justifies following local legal procedures on the basis that doing so is central to Adidas' beliefs and "philosophy". In Adidas' public texts the word "philosophy" is frequently used to describe either the company's corporate identity or its more fundamental business strategies, those which it has employed over a long period of time (see for example Adidas 2001; 2004; 2005). Despite Adidas' claim that relying on local legal processes to resolve labour disputes is basic to the company's values, this philosophy has not been applied consistently at Panarub. In 2004, Adidas and Oxfam Australia jointly requested a detailed assessment of labour rights compliance at Panarub by a non-government organisation, the WRC. In 2004 Adidas' compliance staff cooperated closely with the WRC investigator and came to their own conclusions about labour rights issues in the factory. As a result of these investigations, Adidas required Panarub to re-employ a number of Perbupas union members who had been dismissed, even though their reinstatement had not been recommended by the Indonesian industrial relations system. It wasn't until the October 2005 dismissal of the Perbupas union leaders at Panarub that Adidas started to insist that government processes must be relied upon to determine whether workers' trade union rights had been violated.

Why have Adidas and Nike decided they will no longer make definitive judgments in disputed cases involving trade union rights, even though they are willing to assess

compliance with all other rights in the FLA code? Why has Nike produced such odd arguments to justify this approach, one which lacks plausibility and the other which could be used to discredit Nike's entire labour rights program? Why does Adidas avoid directly engaging with arguments about corruption in local legal systems and instead suggest that allowing disputes to be resolved by local legal processes is one of the company's core values? Public interest regulatory theorists, discussed in Chapter 5, would presumably interpret this as evidence that companies will always avoid taking any steps which might threaten their growth, and that it is therefore naïve to expect companies to regulate their suppliers' labour practices. But these cases do not fit this interpretation. Although Nike was unwilling to decide whether trade union rights had been violated at Jaqalanka and MSP, the company put considerable resources into supporting the FLA's resolution processes at those factories, processes which led to unions becoming established. Similarly, although Adidas declined to decide whether the Perbupas leaders at Panarub had been wrongly dismissed, the company ultimately supported the Indonesian Human Rights Commission's finding and capped Panarub's orders in an attempt to persuade the factory to accept that finding.

Approaching these questions from an institutionalist perspective raises the possibility that Nike and Adidas' reluctance to make judgments in disputed FOA cases has its roots in internal discursive battles about the companies' identity in relation to their suppliers. Fairclough's (2003, p.166) statement about individuals can equally be applied to organisations:

> …what you commit yourself to is a significant part of what you are…identities are relational: who one is is a matter of how one relates to the world and to other people.

Within a neo-liberal discourse, a TNC's identity in relation to its suppliers is that of a customer, and the TNC's role is to negotiate business terms which will maximise the TNC's accumulation. Within a neo-liberal discourse the regulation of workers' rights has no part in the TNC's role or identity, such regulation is the responsibility of governments, and even government intervention should be minimal. Nike, Adidas and Reebok's adoption of the FLA code and regulatory system gave these TNCs an

additional and very different identity in relation to their suppliers. The FLA's regulatory system asks these TNCs to act as labour inspectors as well as business negotiators. As noted in Chapter 5, Mamic's research discovered significant tensions between the staff responsible for implementing these different roles, with buying staff expressing frustration that compliance staff interfered with and complicated already difficult negotiations with suppliers. As this chapter indicates, sportswear suppliers tend to strongly resist trade unions, particularly those willing to undertake industrial action to win better pay and conditions. Of all the rights in the FLA code, trade union rights are the most likely to create tension between the TNCs' new role as labour inspectors within the FLA's regulatory system, and the more established role of buying staff to extract favourable terms in negotiations regarding price, delivery and quality. Nike's argument that it lacks the necessary neutrality to make judgments regarding FOA violations, and Adidas' insistence that respecting local legal systems is an essential part of Adidas' identity, may therefore reflect a reaffirmation of the TNCs' traditional neo-liberal identity in relation to their suppliers and a rejection of the policing role, at least in so far as trade union rights are concerned. Whether or not this explanation is accurate, in so far as Nike and Adidas' investigations of trade union rights is concerned, the FLA's regulatory system is not working in the way envisioned in the FLA Charter.

The FLA

The final two cases considered—MSP Sportswear and Jaqalanka—involved the operation of the FLA's third-party complaint procedure. In both cases Nike played a role in initiating the process, either by directly lodging a complaint with the FLA or by encouraging the workers involved to do so. It is clear from Kidd's letter of 15 March 2005 that bringing the FLA into the MSP case was part of Nike's strategy of avoiding making a definitive judgment regarding alleged FOA violations, a strategy Kidd justified on the basis of Nike's lack of neutrality. There is no indication in the FLA's public reports that the FLA challenged this strategy. The FLA's Charter places virtually no limit on who can lodge a third-party complaint or when a complaint can be lodged, so in that sense Nike's use of the complaint procedure is consistent with the FLA's regulatory system. In a practical sense, however, that system cannot operate effectively if the FLA is treated as the first line of enquiry into code violations. The FLA's 2006

report makes it clear the third-party complaint procedure is supposed to operate as "an additional reporting channel and a further check on systematic monitoring efforts" (FLA 2006b, p. 21). That is, the third-party complaint procedure is supposed to operate as a means of checking whether participating TNCs are effectively monitoring their suppliers' compliance with the FLA code, not as a means by which Nike can avoid that monitoring task. The FLA has very limited staff resources—for both Jaqalanka and MSP the FLA's President and CEO, Auret van Heerden, was directly involved in investigating and facilitating a resolution of the complaints. If the FLA's third-party complaint procedure is regularly used as a first line of enquiry into trade union rights violations and not a "further check" on whether participating companies have conducted rigorous investigations, then the FLA's regulatory system will only have the capacity to influence respect for trade union rights in a very limited number of workplaces.

In both Jaqalanka and MSP, after conducting an initial investigation, van Heerden responded to the complaint by working with a locally respected organisation to initiate a process of mediation. There is some debate over how mediation should be defined (Spencer & Brogan 2006, pp. 3-9), but the FLA appears to use the term to mean a negotiation process which is voluntary, confidential, semi-structured and facilitated by an independent third-party. Advocates of mediation argue it has a number of advantages over other forms of dispute resolution, not least of which is that it is significantly less expensive and tends to be less time-consuming than either arbitration or litigation. Arbitration and litigation are usually structured in such a way as to generate outcomes in which one side wins and the other loses; advocates of mediation claim it can assist parties to identify and recognise each other's interests and negotiate outcomes which benefit both parties and preserve their relationship (Spencer & Brogan 2006, pp 109-10). In terms of Allen's (2003, pp. 58-9) analysis of the modalities of power, mediation aims to enhance "power to" rather than "power over".

As with any negotiation, however, the extent to which each party to mediation is able to achieve a favourable outcome is linked to the other modalities of power in play (Astor & Chinkin 1992, p.105; Spencer & Brogan 2006, p. 123). The labour standards in the FLA code are situated within the discourse of human rights, a discourse which

construes certain interests as so fundamental to human well-being that everyone should be entitled to them automatically, no-one should have to give up something else in order to have them respected. In contrast, as it is usually practiced, mediation makes no such distinction between rights and other interests, everything is up for negotiation. This can make it very difficult for weaker parties to use mediation to get their rights respected. When Perbupas union leaders from Factory A were dismissed at the end of 2004, I and other labour activists alleged their dismissal amounted to a violation of their right to FOA, and we called on Nike to investigate whether the FLA code had been breached. Hannah Jones of Nike denied the workers' rights had been violated and instead represented the case as a dispute which should be resolved through dialogue or mediation. Given that the factory had no interest in reinstating the dismissed union leaders and that those workers had already lost their case before the Indonesian Department of Labour's P4P committee, by construing the issue in this way Nike was virtually guaranteeing the workers would not be reinstated.

That is not to say mediation should have no role to play in resolving labour issues in the supply networks of companies participating in the FLA. As Allen (2003, p. 58) argues, analysis which is limited to instances of "power over", and does not acknowledge the importance of "power to", presents an impoverished account of power relations. When mediation operates in addition to an enforceable, credible and effective adjudicative process designed to protect workers' human rights, workers enter the mediation process in a much better bargaining position. In this circumstance, rather than having to negotiate to get their rights respected, workers can focus on other interests, knowing their rights will be respected even if the mediation process fails to result in an agreement. In the MSP Sportswear case, before the mediation process began the Thai Labour Review Committee had already declared the union leaders should be reinstated, and all parties agree the mediated agreement helped to ensure the ongoing relationship between the union and management was conducted in a more respectful and constructive manner.

In the Jaqalanka case, prior to the mediation neither the Sri Lankan government nor Nike had made a judgement as to whether the workers' trade union rights had been

violated. The mediation process was confidential, and it may be that during the mediation the FLA and/or Nike insisted on respect for the workers' trade union rights. If not, then the FTZGSEU's bargaining position during the mediation would have depended on its own ability to offer incentives or credible threats to the factory's managers. Certainly, as part of the mediated agreement, the FTZGSEU agreed to end its international campaign, which had been damaging Nike and Jaqalanka's reputation and endangering Sri Lanka's status under the GSP system of preferences. If this was the only reason the FTZGSEU were able to successfully negotiate to have the workers' rights respected, then the FLA's third-party complaint procedure was operating less as a regulatory system designed to ensure compliance with labour rights, and more as a process for brokering a deal between the union and the factory.

Currently,[285] the third party complaint section of the FLA web site includes summary reports regarding complaints relating to eight other factories: Cimatextiles in Guatemala; Textile Co. in the Dominican Republic; MSI Garment, Yung Wah 2 and Great Lancelot in Cambodia; El Progreso in Honduras; Hermosa in El Salvador; and Paxar in Turkey (FLA 2007e). In addition, the various FLA Annual Reports refer to third party complaints regarding at least three factories not previously mentioned: BJ&B in the Dominican Republic, and two unnamed factories in El Salvador, one producing for Land's End and the other for Liz Claiborne (FLA 2003; 2004). In all but the Paxar case, the FLA ensured that alleged breaches of FOA were investigated either by the participating company or by an FLA-approved external monitor, and that a judgment was made regarding whether the allegations were valid. In the Paxar case the FLA and the relevant participating companies put pressure on Paxar management to engage in good-faith bargaining with the Teksif union—which had signed up two-thirds of Paxar workers as members. In this case, the FLA did not make a judgment as to whether the union's claims of anti-union intimidation were valid, and union members who claimed they had been dismissed because of their union affiliation had to rely on the Turkish courts to seek redress. Eventually Paxar did sign a CBA with Teksif, but the CBA only covered the handful of workers who were still union members. Teksif claims the fall in membership at Paxar resulted from the company's

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[285] As at 15 Oct. 2007.

anti-union discrimination (FLA 2007e). If this is true, the Paxar case highlights the dangers of the FLA relying solely on negotiation as a means of resolving third party complaints.

Some of the other summary reports also highlight other limitations of the FLA's regulatory system, which were discussed in Chapter 5. An increasing proportion of workers are being employed on short-term contracts in Great Lancelot and other apparel factories in Cambodia (FLA 2007e); this illustrates that the trend toward making working arrangements more flexible is not limited to Indonesia, and underscores the need for the FLA to limit the circumstances in which short-term contracts can be used. The closure of the BJ&B, Hermosa and El Progreso factories illustrate how mobile production can erase hard-won union victories, and demonstrates that more stable buying practices by TNCs are needed if labour rights improvements are to be sustainable. The Paxar case highlights another aspect of the way brands' buying practices can impact negatively on labour conditions. In discussions with the union, Paxar management reported its buyers had unilaterally cut prices by between 7 per cent and 20 per cent in the 12 months leading up August 2006, and that the factory was struggling to survive financially, let alone grant wage rises (FLA 2007e).

Persuading suppliers to comply

The FLA requires participating TNCs to make their ongoing business relationships with suppliers conditional on respect for the FLA's code. The FLA assumes this requirement will provide sufficient leverage to persuade those suppliers to comply with the code, an assumption which was questioned in Chapters 2 and 5. Although I was not able to gain access to all the relevant evidence, the cases described in this chapter can at least be reasonably interpreted as consistent with the analysis put forward in those earlier chapters. Nike and Adidas either declined or did not respond to my requests for information on the history of the company's buying practices in relation to these factories. However, several pieces of evidence indicate that, like other buyers in the apparel and footwear industry, Nike and Adidas are acutely sensitive to cost variations and use their market leverage to drive down the prices they pay their suppliers. Two statements are particularly notable: Adidas' statements to *Bloomberg* (2007a; 2007b)

that purchasing Reebok had enabled Adidas to increase its profit significantly by demanding price cuts from its suppliers; and Nike's (2007, p. 48) enthusiastic expectation that the introduction of lean manufacturing practices would reduce the price it pays suppliers by $0.15 per pair of shoes. Adidas' decision to reduce orders to Panarub in 2006, justified on the grounds of uncompetitive performance on delivery and quality, also demonstrates there is considerable pressure on Adidas' suppliers to produce quickly while maintaining quality standards.

The extent to which these pressures contributed to the suppliers' resistance to trade union activity is more difficult to establish. As discussed in Chapter 3, most of the factory managers involved in these cases refused to talk to me. Panarub's managers denied Adidas' buying practices influenced their reluctance to reinstate the dismissed Perbupas leaders, but it is possible they were self-censoring in order to avoid damaging their relationship with Adidas. Certainly Panarub was not rewarded by Adidas with increased orders when it improved respect for labour rights during 2004 and 2005. Just one of the reforms which Panarub made based on the recommendation of both the WRC and Adidas, moving all casual employees onto permanent contracts, involved significant expense, since it meant Panarub was required to make severance payments to several thousand workers when Adidas reduced its orders in 2006. Panarub therefore shouldered a considerable financial burden to introduce those reforms but still suffered reduced orders from Adidas on the grounds of lack of competitiveness with competitors who were not required to make the same reforms. It is at least plausible this experience persuaded Panarub it had little to gain financially by reinstating union leaders that it regarded as irresponsible and overly prone to taking industrial action.

Panarub managers' willingness to risk factory closure rather than reinstate the union leaders provides further evidence that, in an industry marked by tight profit margins and unpredictable future orders, threatening to end business relationships is not the most effective means of persuading factory owners to allow workers to establish trade unions. Factory C's decision to end its relationship with Reebok can also be interpreted in this light. Factory C's managers may well have made a different decision had Reebok been responsible for a larger proportion of the factory's orders and been willing to reward

respect for trade union rights by making a longer term commitment to ordering from the factory. It is possible the decision by the owner of Factories A and B to move all the Nike production to Factory B was unrelated to the successful strike by Perbupas in Factory A four months earlier, but it is not surprising that Perbupas leaders at Factory A interpreted it as a management strategy to undermine their links with international anti-sweatshop groups. If this is what it was, then management's approach may well have been different if Nike offered incentives to suppliers who respect trade union rights, rather than only punishment for non-compliance.

While the limits on my access to information necessarily make my arguments in the previous two paragraphs speculative, these case-studies provide more solid evidence for another, equally important, limitation of the FLA's reliance on using threats of lost business to achieve code compliance. In at least four of the cases—Factory B, Factory C,[286] Panarub and Jaqalanka—factory managers used the possibility that union complaints could lead to lost orders and possible factory closure to represent union organisers as selfishly endangering the jobs of their fellow-workers. Union leaders told me this proved a very effective means of undermining their unions and damaging their relationships with their members and other workers in their factories. In the Panarub case, management's use of this discursive strategy helped persuade the dismissed union leaders to give up fighting for their reinstatement. Panarub management's insistence it would rather close the factory than reinstate the union leaders also had an impact on Adidas. The sports brand's standard procedure for dealing with ongoing code violations is to send a series of three official warning letters, and to stop doing business with the factory if the problem is not corrected after the third warning letter. In the Panarub case, Adidas declined to use this warning letter system because Adidas was also reluctant to accept responsibility for making more than 10 000 workers unemployed. If Adidas and Nike offered significant incentives to suppliers who fully respect FOA, this would change the discursive context. Union leaders could then argue their organising efforts

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[286] Although it was Factory C's managers who ended the relationship with Reebok, they blamed the independent union for the associated loss of jobs, arguing that if the union's leaders hadn't reported problems in the factory to Reebok then Reebok would not have been so demanding and management could have afforded to keep Reebok's orders.

were assisting their factory in its competition for orders, not putting those orders—and workers' jobs—in danger.

I noted in the introduction to this chapter that, had I written it in September 2004, my conclusions would have been more sanguine. In that month the WRC (2004) released an updated assessment of the situation at Panarub, reporting significant improvements in respect for labour rights, including the reinstatement of several union organisers. At the time the Perbupas union at Spotec was struggling to ensure workers in the factory had greater freedom to decide which union they could join, but following Reebok's intervention in 2003 there had been no more acts of violence against Perbupas leaders at the factory, nor any further attempts to dismiss large numbers of Perbupas members. At that stage there was no indication Spotec would close in 2006. By September 2004 the owner of Factory A and Factory B had moved all the Nike production to Factory B, but there had been no attempts to discriminate against union leaders at Factory A, and there was at that stage no indication Factory A would close in 2006, and re-open with all workers on fixed contracts. In September 2004 the BJ&B factory in the Dominican Republic was still open and negotiating collective bargaining agreements with worker representatives.

Writing in September 2007, it is hard to avoid the conclusion that if codes of conduct and multi-stakeholder initiatives are to increase apparel and footwear workers' freedom to organise and bargain collectively, then the anti-sweatshop movement needs to find ways to convince TNCs to make more radical changes in their way of doing business. In the next, concluding, chapter I consider what kind of changes are needed and how TNCs might be persuaded to adopt these reforms.

Chapter 7

Conclusion

> Whilst the workmen's Trade Societies have been becoming more moderate and larger in their views…[the] capitalist is beginning to acknowledge the propriety of considering the welfare of the worker whose help he needs…We yet at odd intervals hear threats that he will leave the country, take his capital with him, and invest it where his operations will not be interfered with by the committees of Trades' Unions, but these menaces are usually uttered in the press or in Parliament by indiscreet friends of employers, not by employers themselves. England is still the great central field of the world's industry—the field where, with all its drawbacks, capital yields the most certain and largest profit, and where trade almost continuously increases…
>
> *Ludlow and Jones (1867, p. 229-30)*

This extract is from Chapter 5 of Ludlow and Jones' 1867 classic, *Progress of the Working Class, 1832-1867*. The chapter is titled "What the working classes have done without the law", and it details the growth of the 19th century British trade union movement. According to Ludlow and Jones (1867, p. 205) by 1867 at least 500 000 British workers were unionised.[287] As the chapter title indicates, these early unions were established in spite of a hostile legal environment (Brodie 2003, pp. 1-27). Up until the Reform Act in 1832, unions had been illegal, and workers' associations had operated underground (Ludlow & Jones 1867, pp. 22-3). Even following the 1832 reforms, workers' associations were "no longer criminal in se, but remained, as it were, banished out of the realm of the law" (Ludlow and Jones 1867, p. 43). Between 1832 and 1871, British trade unions did not even have a legal basis for protecting their property,[288] and during this period it was common for workers to be imprisoned for taking strike action (Brodie 2003, pp. 1-2; Ludlow & Jones 1867, p. 44). Despite these legal restrictions, by building the unity and size of their membership and their support in the wider

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[287] Ludlow and Jones claim their estimate of 500 000 unionised workers is conservative. According to Clegg et. al. (1964, cited in Brodie 2003, p. 27) trade union membership in Britain was approximately 700 000 in 1889 and had passed 2 million by 1900.

[288] Between 1846 and 1867 many unions got around this problem by registering as Friendly Societies, but in 1867 the Queen's Bench decided in the case of *Hornby v. Close* that unions could not claim the protection of the Friendly Societies legislation because their goals were in restraint of trade and hence unlawful (Ludlow & Jones 1867, p. 44; Brodie 2003, p. 1).

community,[289] these unions managed to persuade enough employers to recognise and bargain with them to allow the fledgling labour movement to survive and grow (Ludlow and Jones 1867, pp. 229-30). That is not to suggest these early unions regarded legal protections as unnecessary; on the contrary, they campaigned vigorously for legal reform. Either Ludlow or Jones, it is not clear which, reports that in 1832 he was one of thousands of Manchester workers who kept his pike sharpened, ready to march on London if the Reform Bill was not passed (Ludlow & Jones 1867, p. 22). From 1867-9, the public image of the labour movement was severely threatened when the government used violence by trade unionists in Sheffield as justification for holding a Royal Commission into how workers' organisations should be regulated. Trade unions and their allies mobilised to provide considerable evidence to the commissioners that the behaviour of the Sheffield union leaders was unusual, and that the great majority of trade unions were playing a respectable and necessary role in advancing the interests of working class men and women (Brodie 2003, p. 3; Ludlow & Jones 1867, pp. x-xv, 208-9, 228-30). A minority of the commissioners was persuaded that strikes should be decriminalised; that trade unions should be recognised as legal entities; and that the law should not narrowly constrain trade union activities and goals (Brodie 2003, p. 15).[290] The Trade Union Act of 1871 bore the imprint of the minority commissioners' report, and this legislation provided the foundation for modern UK law regarding trade union freedoms (Brodie 2003, pp. 1, 10-15).

In Indonesia, Thailand, Sri Lanka, and other countries of the South where garment and footwear is produced for export, trade union leaders would likely recognise and identify with many of the challenges facing UK trade unions in the mid-19th century. Like their modern counterparts, those early labour activists were accused of endangering the prosperity of their country and the jobs of their fellow workers; they campaigned for long term employment contracts and reliable wages in a context in which many employers preferred sub-contracting and piecework; they risked dismissal and potential

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[289] Brodie (2003, p. 10) reports that by 1867 it was becoming "increasingly accepted that trade unions had a role to play in setting wage levels and even that the existence, and exercise of, collective force was essential if the bargaining power of employees was to increase".

[290] In contrast, the majority Commissioners' report recommended that workers' organisations only be given legal protections if those organisations' rules did not contain "restrictive clauses", such as prohibitions on piecework and sub-contracting (Brodie 2003, p. 3).

imprisonment if they undertook industrial action; and they faced a legal system which tended to be biased against them (Brodie 2003, pp. 3, 1-10, 16; Ludlow & Jones 1867, pp. 43, 200, 229-30, 304). Naturally there are also myriad differences between the industrial relations situation in the UK in 1867 and those of the industrialising countries in which sportswear is produced today. Arguably, however, one of those differences made the task of establishing trade unions in labour-intensive industries significantly easier in 19th century Britain. Ludlow and Jones were able to dismiss threats by employers that they could escape trade union activity by relocating production to other countries. Modern apparel and footwear unions do not have this luxury. The flexibility and mobility of today's production networks has drastically reduced the size and strength of apparel and footwear trade unions in industrialised countries and helped to prevent the growth of unions in the South. The early UK unions established themselves by persuading some manufacturers in the UK to cooperate with them, by winning public sympathy within the UK, and by successfully campaigning for national legal reform. Some commentators argue this kind of nationally-scaled strategy cannot work in a globalising world economy and that therefore a global "race to the bottom" in terms of working conditions in labour-intensive industries is inevitable. According to this view, at least in these industries—and possibly more generally—the trade union movement has little or no future. Others argue that if today's garment and footwear unions are to build their strength then they must use similar strategies to those used by earlier generations of labour activists, but must apply them at the global scale in addition to the local. That is, they must win public sympathy at a global level, must persuade global companies to cooperate, and must campaign for global legal regulation of trade union rights.

This thesis has considered the viability of this international strategy, taking as a case-study the anti-sweatshop movement's campaigns targeting the sportswear industry. Relying on published sources, field interviews, and my own participation, it has utilised network theories to provide an account of the dynamics which drive this movement, and to assess its ability to mobilise and sustain sufficient public pressure to influence corporate and public policy on a global scale. So far the most obvious result of anti-sweatshop campaigning has been the growth in voluntary systems for regulating labour

practices in corporate supply networks, including multi-stakeholder initiatives such as the Fair Labor Association (FLA). Many commentators dismiss multi-stakeholder initiatives as corporate window-dressing. I have instead drawn on the work of institutionalist regulatory theorists, and of some economic geographers, to provide a more positive interpretation of the potential of multi-stakeholder initiatives to improve respect for trade union rights. I have also considered the extent to which this potential is being realised, basing my conclusions on a variety of sources, including published research; interviews with trade union organisers in sportswear factories in Indonesia; interviews and correspondence with representatives of sportswear companies; interviews with NGO representatives on the FLA board; and analysis of relevant documents produced by the FLA and by Nike, Reebok and Adidas.

This concluding chapter summarises the findings described in earlier chapters and makes some recommendations for the anti-sweatshop movement. It initially reviews material from Chapters 2 and 5 regarding the adequacy of the "race to the bottom" perspective. Next it summarises different theoretical perspectives on voluntary forms of corporate regulation, and then considers the empirical evidence regarding how effectively the FLA's regulatory system has protected workers' right to freedom of association (FOA). This is followed by reflections on how my role as an activist has influenced the effectiveness of my research methods, and some recommendations for future researchers in this field. I then weigh whether labour activists should continue to push for improvements in voluntary regulatory initiatives or else condemn their development as a blind alley. Finally, I draw on the analysis of the anti-sweatshop movement in Chapter 4 to advocate a particular strategy for increasing the movement's leverage in relation to TNCs, a strategy in which I believe scholars could and should play an important role.

A race to the bottom?
Simplistic versions of the "race to the bottom" thesis are, of course, inadequate. Apparel and footwear companies do not constantly re-locate production to whichever country has the lowest labour costs. There are many other variables which affect where the world's clothes and shoes are made, including availability of raw materials, proximity

to markets, access to international shipping routes, and the adequacy of infrastructure—most notably electricity, telecommunications, highways and port facilities. Also relevant is the availability of skilled staff in fields such as fashion design, pattern cutting, languages and information technology.[291] States' policies regarding education and infrastructure therefore have a significant impact on where production is located, as do governments' roles in the negotiation of international trade agreements, the management of exchange rates and the maintenance of various forms of protectionism. The level of political stability and the costs associated with corruption by public officials can also affect whether TNCs choose to source production in a particular country.

In combination with labour costs, these various factors make some places in the world more attractive as venues for apparel and footwear production, and limit the number of countries and zones where these goods are produced for export. They do not, however, tie production to individual workplaces. On the contrary, the highly flexible sub-contracting system innovated by Nike and Reebok in the 1970s has become standard operating procedure in the global apparel and footwear industry. As a rule, retailers and brand-owning companies do not own any factories; they contract out production to a relatively large number of suppliers, or else give this role to sourcing agents who manage their supply networks for them. The growing concentration of market power among retailers and brand-owning companies puts the factory owners in a disadvantageous bargaining position. Factory suppliers' profit margins are usually tight and if they produce more slowly than their competitors, or charge more for production, or fail to meet quality targets, then they can lose orders and may go out of business.[292] The number of goods managed by the largest retailers and brand-owning companies is

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[291] Advances in information and communication technologies have increased manufacturers' flexibility, so that, for example, different aspects of a production process can take place in different countries. In order to be part of production networks which utilise these technologies, however, factories need to be located in countries with reliable telecommunications infrastructure and need to be able to attract workers with the skills to manage these technologies.

[292] The bargaining imbalance between brand-owning companies and suppliers is more pronounced in apparel production as compared with footwear. The latter requires larger capital investment and hence companies which own footwear factories tend to be much larger and have larger market share than apparel producers. As discussed in Chapter 6, however, in the sportswear sector even footwear factories are under considerable pressure to cut costs and produce quickly, and factory closures due to lost orders or limited profit margins are not uncommon.

so substantial that even very small changes in the prices paid to suppliers can significantly affect overall profit levels. These large buyers therefore use their control of market share to drive prices down as far as they can. Speed of production is also important. The introduction of just-in-time supply management techniques—whereby consumer demand pulls products through the production and distribution process—creates advantages for factories which can get goods from the factory to the retail outlet more quickly, but also increases pressure on factories to reduce the time taken to fill orders. These speed and cost pressures are generally passed on to workers, and numerous researchers have demonstrated that long hours, high work intensity, low wages, job insecurity, and poor health and safety practices are the norm.

Suppression of trade union rights is also prevalent. Although labour control regimes vary from country to country and workplace to workplace, apparel and footwear workers who seek to establish democratic trade unions almost always face tremendous difficulties. Factory owners use a variety of strategies to discourage union organising, including intimidating, discriminating against, dismissing and/or blacklisting union organisers; employing workers on casual or short-term contracts; and contracting work out to home-workers. Women, who make up approximately 80 per cent of the world's sportswear workers, face particular barriers to organising. In industrial zones in developing countries like Indonesia, Thailand and Sri Lanka, very long working hours mean that union meetings almost always happen at night. Travelling in these zones can be unsafe at night, particularly for women, and traditional mores mean that women who travel at night also risk being regarded as promiscuous. Women workers who are married are also usually still expected to do a higher proportion of the domestic and caring work than men, even when they are the primary wage-earners, further limiting the time women have available for organising. In one of the factories I researched women also reported that factory supervisors subjected female union organisers to more intense verbal intimidation and harassment than their male counterparts.

If democratic and independent unions do become established, factory owners frequently avoid having to negotiate with them by closing the factory and re-opening it in another country or region; or sometimes re-opening it in the same place, but only with non-

union workers employed on a short-term or casual basis. Even if a threat to close a factory is not carried through, the threat itself can dissuade workers from organising or constrain their demands if they do. In non-communist countries threats to move production to China and Vietnam, where independent unions are banned, are especially powerful. Such threats are far from idle; these two countries produce a large and growing proportion of the world's sportshoes and sportswear, as well as of its manufactured goods more generally.

No doubt the opposition to trade unions among apparel and footwear manufacturers has multiple causes, but the buying practices of retailers and brand-owners represent a major ingredient in the mix. Industrial action or negotiated wage rises have the potential to reduce a factory's ability to produce quickly and cheaply, and in the context of intense competition between factory suppliers this can put future orders in jeopardy. It is therefore hardly surprising that factory owners go to considerable lengths to discourage workers from forming unions. That is not to say that retailers and brand-owners concede this point. As discussed in Chapter 5, both Adidas and Nike are in the process of persuading their sport shoe suppliers to adopt the lean manufacturing philosophy (Lean)—also known as The Toyota Way. They argue Lean provides a win-win scenario, in which workers gain more skills and are consequently paid better, while greater efficiencies ensure production is competitive in terms of speed, cost and quality. Both companies recognise the very high work intensity associated with Lean can pose dangers to workers' health and well-being, but they argue these dangers can be countered if manufacturers fully implement the Lean philosophy, by cooperating with trade unions—if any are present in the factory—and by empowering individual workers to identify hazards and take action to correct them. More research is needed into the impact of the introduction of Lean on respect for labour rights in sportswear factories. However, the research cited in Chapter 5 into the Toyota company's approach to trade unions in Asia casts considerable doubt on whether the Lean philosophy necessarily facilitates greater respect for workers' right to FOA.

Different theoretical perspectives on multi-stakeholder initiatives
The introduction of Lean is not Nike and Adidas' only strategy for improving labour

conditions in the companies' supply networks. The two sportswear giants have responded to anti-sweatshop campaigns by adopting labour codes of conduct for their suppliers and by instituting monitoring programs to assess whether those codes are being respected. Nike, Adidas and Reebok—which was purchased by Adidas in 2006—are also members of the Fair Labor Association (FLA), a multi-stakeholder initiative which oversees the labour programs of participating companies and reports on whether these programs are ensuring respect for the FLA's code.

Multi-stakeholder initiatives like the FLA are controversial. Commentators from a broad range of theoretical perspectives, from neo-classical economists to neo-Marxist political scientists, tend to characterise corporations as unitary organisations driven solely by the goal of economic accumulation. This understanding leads to considerable scepticism towards all voluntary forms of corporate regulation, including multi-stakeholder initiatives. Legal thinkers influenced by neo-classical economics—categorised by Morgan and Yeung (2007) as "private interest" regulatory theorists—are dubious of the capacity of any regulatory intervention to promote the public interest. As such, they usually regard codes and multi-stakeholder initiatives as misguided interference with the market mechanism. Within social democratic and neo-Marxist traditions, many thinkers believe it is the only the state, ideally run by a party which represents working class interests, which can protect the public from the negative impact of unfettered corporate power. Morgan and Yeung (2007) categorise writers who take this view as "public interest" regulatory theorists. People who adopt this approach regard multi-stakeholder initiatives and other voluntary regulatory initiatives as little more than attempts by companies to avoid state regulation by legitimising unethical practices. From this perspective, the only non-state regulatory bodies which can be useful are those such as the Worker Rights Consortium (WRC), which are imposed on companies via the efforts of activists, and which have no corporate involvement in their governance structures.

My approach in this thesis has been influenced by an alternative, decentred characterisation of corporations and of corporate regulation. A number of economic geographers—including Schoenberger, McDowell, Gibson-Graham, O'Neill and

Yeung—take seriously the internal and external currents of thought, text and practice which influence the identities and behaviour of corporate decision-makers. These writers do not deny that companies must make money in order to remain viable, but they question the adequacy of explanations of corporate practice which rely solely on an assumed inherent drive toward ever-increasing accumulation. What emerges from their research is a much more complex understanding of the corporation than its traditional portrayal as an indivisible, profit-seeking entity. They instead describe how corporate behaviour is driven by factors as diverse—and potentially contradictory and conflictual—as personality clashes; cultural norms; conceptions of masculinity and femininity; and apprehensions of moral responsibility. In applying this decentred approach I have found it useful to utilise discourse analysis. By discourse, I mean a sign system which valorises some kinds of behaviours and identities, and defines others as distasteful or repugnant. Following Fairclough (1995), I have used the term broadly, to refer not only to the sign systems themselves, but also to the non-verbal practices and texts—including spoken interaction and multi-media forms of communication—through which the sign systems are embodied, disseminated and promoted. I have also adopted and applied Fairclough's concept of orders of discourse, an idea he adapted from Gramsci's understanding of hegemony. Analysing the orders of discourse operating within a corporation draws attention to the various agendas and logics which drive the many individuals and groups which comprise and impact upon that firm. Such analysis also highlights the way in which these various discourses tend to be either marginalised by, or absorbed into, a dominant narrative which has a relatively strong influence over decision-making within the company. Such dominant narratives may change over time in order to reflect and incorporate changing power relationships, and associated discoursal shifts, occurring within and outside the corporation.

Within legal studies there are a number of thinkers—including Ayres, Braithewaite, Hancher, Moran, Picciotto and Teubner—who are categorised by Morgan and Yeung (2007) as promoting a "decentred" or "institutionalist" understanding of regulation. Although these thinkers may not use the term discourse, like the scholars discussed in the previous paragraph they take seriously the internal conversations and ways of thinking which drive corporate practice. Consequently they argue the impact of state

regulation on corporations is as dependent on how that regulatory system is interpreted and responded to by corporate decision-makers, as it is on how vigorously compliance is investigated and enforced by the state. Institutionalist regulatory interventions—particularly those advocated by Teubner, Ayres and Braithewaite—involve using legal power to force corporate decision-makers to give representatives of particular interests a role in negotiating and establishing internal company strategies and practices. Laws protecting workers' rights to FOA and collective bargaining could, for example, be described as institutionalist, in that they require employers to negotiate with workers' representatives and to allow workers to withdraw their labour as a means of increasing their influence over corporate decision-making.[293]

From the perspective of institutionalist regulatory theory, multi-stakeholder initiatives and other examples of corporate self-regulation should not be rejected out of hand; instead the question becomes how these initiatives impact on the debates, power plays and resulting regularised processes which reproduce corporate behaviour. Institutionalist regulatory theorists are aware many corporations use voluntary initiatives purely for public relations purposes and as a means of subverting attempts to establish effective regulation by states. They do not, however, believe voluntary regulatory initiatives always and only operate to undermine campaigns for legal reform. They hold that in some cases such initiatives can positively influence corporate practices, can help reduce corporate opposition to state-sanctioned regulation,[294] and can influence thinking about what form international legal regulation might take. This perspective gained high-profile support in 2007. In that year UN Special Representative for Business and Human Rights, John Ruggie, proposed that as part of a process towards achieving effective international regulation of TNCs, governments should provide companies with incentives to join some multi-stakeholder initiatives. Ruggie subsequently wrote the foreword to an FLA report, suggesting he regards the FLA as one of the initiatives which deserve to be scaled up in this way.

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[293] Other examples include the Co-determination Act (1976) in Germany and proposals by Ayres and Braithewaite (1992) to give representatives of environmental groups a role in establishing and policing companies' internal environmental policies.
[294] As noted in Chapter 5, an example is the introduction of the German Co-determination Act in 1976, which made mandatory a practice which many German firms were already implementing on a voluntary basis.

Investigating respect for trade union rights

While I am sympathetic to the potential for multi-stakeholder initiatives to help pave the way for effective international legal regulation of corporate labour practices, I don't believe governments should support efforts to increase the number of companies participating in such an initiative until there is good evidence that it is protecting workers' rights. Chapter 5 reviewed existing research into the effectiveness of voluntary monitoring of trade union rights—particularly that involving companies participating in the FLA—and Chapter 6 described my research into monitoring of those rights in eight workplaces where sportswear is either made or distributed for Nike, Reebok or Adidas. When assessing any regulatory system it is useful to distinguish two aspects: first, the systems in place for investigating whether rules are being broken; and, second, the procedures for persuading non-compliant individuals or organisations to change their behaviour in order to bring it into line with the rules. As discussed in Chapter 5, most of the companies which currently audit factory labour conditions for TNCs are operating much as public interest regulatory theorists would predict, providing TNCs with a means of claiming they are taking labour rights seriously, when in fact these factory audits usually represent superficial and inadequate efforts to investigate a very limited range of labour issues.

Rather than paying external companies to investigate labour rights compliance, some TNCs have established internal compliance departments and employed staff whose job it is to monitor the extent to which their suppliers are respecting labour rights. The opinions of labour activists and researchers are more divided when it comes to assessing the effectiveness of this kind of labour monitoring. Many condemn it as yet another example of corporate public relations, designed to make companies look good rather than to improve labour conditions. More surprisingly, since 2005 some organisations involved in the anti-sweatshop movement—including the International Textile, Garment and Leather Workers Federation (ITGLWF) and the Clean Clothes Campaign (CCC)—have encouraged TNCs to employ more in-house compliance staff, and have called for improved professional training and accreditation of staff in these roles. These organisations report that some labour compliance staff within some TNCs have proved

willing to investigate labour rights issues in a pro-active and thorough manner. Certainly in at least two of the Indonesian cases described in Chapter 6—the Spotec sportswear factory in 2003 and more especially in Factory C in 2005—Reebok's in-house compliance staff took very seriously their responsibility to determine whether trade union leaders were experiencing discrimination and intimidation.

This is less true of the post-October 2005 response of Adidas' compliance staff to allegations of anti-union discrimination at Panarub, and of Nike compliance staff's response to similar allegations at Jaqalanka, MSP Sportswear and Factories A and B. In each of these cases the TNC's compliance staff undertook investigations and, where the alleged violation of those rights was clear-cut and indisputable, were willing to insist the supplier change its practices. Where the facts or their interpretation were contested, however, both Nike and Adidas claimed that they were not the appropriate party to make a definitive judgment. They instead argued local government authorities—or, in the case of Jaqalanka and MSP Sportswear, the FLA—should decide whether workers' trade union rights had been breached. This is not how the FLA's documents indicate that the FLA's regulatory system should work. The FLA code is supposed to apply in addition to local laws, and participating companies' internal monitoring programs are supposed to operate in addition to local state regulatory systems. The FLA's third party complaint mechanism, which was employed in the Jaqalanka and MSP Sportswear cases, is supposed to be a further check on the effectiveness of the internal monitoring programs of Nike and other participating companies; it is not supposed to activate an FLA investigation before the participating company has itself investigated and made a determination as to whether the FLA's code has been breached. The FLA has very limited staff resources and, assuming those resources are not significantly enhanced, if Nike and other participating companies give the FLA the initial and primarily responsibility for sorting out whether trade union rights are being breached in each factory then only a very small number of cases will be investigated and resolved.

Some researchers and labour activists have characterised the FLA's code and monitoring system as a compromise in which consumer organisations such as the National Consumers League (NCL) sold out the unions originally involved in the AIP

negotiations. According to this view the NCL and other NGOs on the FLA board agreed to independent monitoring of factory labour standards when they should instead have insisted on workers' rights to organise and bargain collectively. My research indicates this is a misrepresentation. The FLA's monitoring system is certainly a compromise, but the civil society representatives on the FLA's board are strongly committed to trade union rights. This is reflected in the FLA's compliance benchmarks and in other FLA documents which provide detailed explanations of expectations of suppliers with regard to these rights, explanations which are in line with the relevant ILO jurisprudence. The FLA's civil society board representatives also no doubt had influence over the appointment of Auret van Heerden as FLA President and CEO; Van Heerden has many years experience working with the ILO and strong activist credentials. The latest phase in the development of the FLA's monitoring system, known as FLA 3.0, also indicates the FLA's civil society representatives are continuing to push for local trade unions and civil society organisations to be properly consulted and involved in efforts to monitor compliance with the FLA code.

To some extent, this commitment to trade union rights by civil society representatives on the FLA board has been reflected in the FLA's operations. In the Jaqalanka and MSP Sportswear cases, for example, the FLA worked with Nike, the factory managers, the factory-level unions and local civil society organisations to facilitate an agreement which ensured workers in those factories were free to organise. So far, however, the FLA has failed to implement rigorously the primary role it has set itself, that of watchdog over the internal monitoring programs of participating companies. There is no evidence the FLA censured Nike for refusing to make a judgment as to whether factory managers were violating FOA in the Jaqalanka and MSP cases. Nor is there much evidence of the FLA calling participating companies to account when its "independent external monitoring" (IEM) program discovers FOA violations which have been missed by the companies' own monitoring programs. Indeed, up until recently the FLA's response to FOA violations discovered through the IEM program demonstrated a remarkable degree of trust in the participating companies' compliance staff. The FLA effectively left it entirely to those staff to ensure violations were corrected. In 2005, however, the FLA started to order follow-up IEM investigations, to check whether

participating companies had properly dealt with previous IEM findings. It has emerged from these follow-up investigations that in at least some cases participating companies have failed to adequately address previous findings of non-compliance. This may well indicate the FLA is starting to subject participating companies monitoring programs to more rigorous scrutiny.

Returning to the cases discussed in Chapter 6, it is unclear why Nike and Adidas are reluctant to make definitive judgements as to whether suppliers have breached workers' trade union rights. Neither Nike nor Adidas have taken this stance in relation to any other aspect of the FLA code. A possible explanation, and one which I favour, is that this refusal reflects a resolution of internal conflicts regarding these companies' identities in relation to their suppliers. It is clear from Mamic's (2004) interview research that within major sportswear companies there are internal tensions between buying staff and compliance staff. Some of the buying staff she interviewed expressed annoyance that the monitoring efforts of compliance staff complicated the buyers' already difficult task of negotiating favourable terms with suppliers. Since suppliers tend to strongly resist workers' efforts to establish trade unions, compliance issues relating to FOA are likely to be particularly contentious. It is no doubt more difficult for buying staff to push a supplier to take a price cut, or to speed up production, if compliance staff from the same TNC are telling the same supplier it must re-employ assertive trade union leaders, particularly if the local government has endorsed the supplier's dismissal of those workers. Adidas' and Nike's arguments that they cannot be expected to decide whether workers' trade union rights have been violated—and that local governments, or the FLA, should be responsible for making those judgements— may therefore reflect an accommodation to the concerns of the companies' buying staff. Certainly my assessment of the orders of discourse operating within Nike is that although labour rights compliance has been absorbed into the company's dominant narrative, Nike's senior managers have made it clear that labour rights principles must not be allowed to interfere with the companies' primary goal of maximising accumulation. Thus Nike's (2007) most recent corporate responsibility report indicates all internal efforts to improve Nike's ethical performance must also enhance the company's economic growth. That report also acknowledges Nike needs to prioritise

persuading suppliers to respect FOA, but is vague as to how the company plans to do this. If Nike's future efforts to promote trade union rights within its supply networks must also enhance the company's economic growth, this may lead to a limited and distorted version of FOA. The danger is that unions will only be allowed to operate if and when they are willing to cooperate with corporate growth strategies.

Persuading factory suppliers to correct non-compliance with trade union rights
If voluntary labour initiatives like the FLA are to be effective, participating TNCs must not only rigorously investigate whether suppliers are upholding the relevant labour standards, they must also persuade non-compliant suppliers to bring their practices into line with those standards. A number of academic researchers and labour groups argue the buying practices of apparel and footwear retailers and brand-owners make it very difficult for suppliers to improve wages and working conditions. These groups have called on TNCs to reward suppliers that respect labour rights, for example by offering longer term buying relationships and higher prices. Given the price and delivery pressures on suppliers; the highly flexible and mobile nature of supply networks; and the growing sophistication of efforts by suppliers to fool labour auditors; I am also persuaded that in the apparel and footwear industry voluntary labour codes and monitoring systems are unlikely to increase respect for trade union rights unless suppliers are offered rewards for fully respecting FOA.

To the best of my knowledge, no TNC currently offers its suppliers better prices in exchange for improving their respect for labour rights. The FLA only requires that participating companies make ongoing business with suppliers conditional on code compliance. Both Nike and Adidas do include labour standards measures in their overall assessment of how many orders should be allocated to each supplier, an initiative with Nike refers to as a "balanced scorecard". To the limited extent that I have been able to access information about these measures, however, the weight given to workers' rights to FOA and collective bargaining appears to be so small that it is highly unlikely that suppliers could materially increase their order levels by respecting these rights. With regard to the case-studies described in Chapter 6, Nike and Adidas declined to provide me with copies of internal labour compliance assessments, or with data regarding how

those compliance assessments influenced order levels. Certainly in the Panarub case the available evidence indicates that quality and speed of delivery were far more important than labour rights compliance in determining order levels.

As noted earlier, my reading and analysis lead me to conclude that buyers' facilitation of fierce competition between suppliers for orders is a major factor causing suppliers to oppose and resist trade unions. In the cases described in Chapter 6, however, limits on my access to data hampered my ability to assess the extent to which Nike and Adidas' buying practices influenced the reluctance of these particular factory owners to allow workers to exercise their trade union rights. Nike and Adidas declined to provide me with detailed information regarding the history of prices paid to those suppliers, or with other data regarding how order levels were determined. I sought interviews with the managers of the factories in Indonesia, but most refused to meet with me. In 2005 and 2006 I did have several meetings with senior managers at the Panarub factory. In those meetings the Panarub managers denied Adidas' buying practices had any influence on their reluctance to reinstate trade union leaders from the Perbupas union. There is the possibility, though, that these managers did not want to damage their relationship with Adidas by criticising the TNC to a labour activist.

What is clear from these cases is that in a relatively unstable and mobile industry, in which buyers have no long-term commitment to their suppliers, threats to cut orders are not necessarily an effective means of persuading suppliers to change their practices. Rather than comply with Reebok's demands that he cease discriminating against the leaders of one of the unions in his factory, the owner of Factory C instead refused any further orders from Reebok. The owner of Panarub was willing to risk losing Adidas' business rather than reinstate dismissed union leaders who had been involved in strike activity. A few months after unionised workers at Factory A successfully took industrial action to win a pay rise, the factory owner decided to move all the Nike orders to another factory. While it is possible that, as the factory owner claimed, this move was a business decision unrelated to the strike, it is worth noting that two years later all the members of the union who participated in the strike lost their jobs, a development which would have violated the FLA code if that factory had still been producing for Nike.

Union organisers in these factories also reported that threats by TNCs to cut orders to a factory can damage trade unions, even if the threat is intended to persuade the factory to allow the trade union to operate. In Factory B, Factory C, Panarub and Jaqalanka, the factory managers portrayed the trade union leaders who made complaints to Adidas or Nike as recklessly putting the jobs of their fellow-workers at risk. This undermined union leaders' popularity with their members and in some cases was influential in union leaders' decision to give up fighting for reinstatement in case their campaigns resulted in factory closure. These union leaders would have been in a more powerful position if, rather than relying on TNC threats to cut orders, they could have instead argued their reinstatement would improve the factory's financial position and the job security of their members. Promises from Nike and Adidas to reward suppliers who fully respect FOA would be more useful to these unions than the FLA's requirement that participating brands need only make ongoing business with these suppliers conditional on labour rights compliance.

Situated knowledge and situated ignorance

Chapter 1 considered philosophical issues relevant to the nature of knowledge. I support the approach which Resnick and Wolffe call *overdetermination*: the belief that the universe and everything in it are made up of innumerable intersecting and mutually constitutive processes. From this perspective the world is too complex for any representation to accurately capture all of the dynamics involved in any particular phenomenon. All processes are constantly being recreated by the other processes with which they interact, and no process would exist in the same way if those other processes were not present, or were acting differently. Even defining something as distinct from other things is necessarily a somewhat artificial exercise. Strong essentialist claims— that it is possible to definitively identify simpler, essential processes which underlie and direct more complex realities—must therefore be rejected. Recognising that accurately describing and understanding reality is impossible, I nonetheless accept Sayer's argument that knowledge should be practically adequate. Sayer contends that representations can be differentially valued based on the extent to which they explain known phenomena and create expectations regarding future events which are actually

realised. In Chapter 1 I also adapted Spivak's notion of strategic essentialism to argue that writers should describe and analyse those aspects of a situation which seem to them most likely to produce theories which will successfully guide goal-oriented interventions. It follows that I do not expect the descriptions, analysis and propositions developed in this thesis to reflect a complete picture of all the dynamics involved in sports brands' responses to labour rights campaigns. In presenting this account I have, however, attempted to explain everything which I have been able to discover and which I believe to be important and relevant to my research questions. Based on that explanation, in the next section of this chapter I recommend strategies which I hope will pass Sayer's test of practically adequacy.

As discussed in Chapter 3, what I have been able to discover about these questions has been limited and directed by my research methodology; a methodology which is necessarily influenced by my normative assumptions, my conceptual frameworks, my personal history, and the way I chose to respond to the various dilemmas which arose during the course of the research. The knowledge I have produced in this thesis is therefore situated, in the sense outlined by Haraway (1988). It is of course not only my characteristics and decisions which have influenced what I have been able to discover. My learning has also been contingent on how others have responded to me. I have been given privileged, albeit still partial and mediated, access to the views of trade union leaders in sportswear factories in Indonesia; civil society representatives on the FLA board; and numerous other labour activists involved in the anti-sweatshop movement. This access has given me considerable confidence in my analysis of how the anti-sweatshop movement works; how the FLA's regulatory system is supposed to work; and how in practice that system has impacted on respect for workers' trade union rights in the factories discussed in Chapter 6.

In contrast, I have not been given direct access to information about the internal discursive conflicts and accommodations which have determined how Nike, Adidas and Reebok have responded to criticism of their labour practices. I have also been refused some data regarding the relationships between these sports brands and the managers of the factories discussed in Chapter 6, including information about their financial

dealings. As a result of my role as an activist, company representatives and factory managers have approached formal research interviews and other requests for information with considerable wariness, and our interactions have not been marked by the levels of trust and openness which can assist researchers to have confidence in the information they are receiving. To a certain extent these kinds of barriers are inevitable. As discussed in Chapter 3, all research subjects tailor the information they share with researchers, and social researchers who have no activist involvement in issues they study also have to make political decisions which influence their access to data. It must be acknowledged, however, that while my conclusions are based on situated knowledge, they are also to some extent based on situated ignorance.

I have based my propositions regarding the orders of discourse operating within Nike, Adidas and Reebok on interview research conducted by Mamic (2004); on analysis of public statements and reports released by those companies; and on assessments of how their labour practices initiatives have worked out in practice in particular factories. My arguments regarding how these TNCs' buying practices have impacted on their suppliers' willingness to allow workers to form unions are based on the same sources, as well as academic literature regarding the dominant business model in the global apparel and footwear industry. I believe these sources are adequate to demonstrate that the propositions I have put forward are at least worthy of serious consideration and further research. I hope they will be further tested by other researchers who are able to build more open and trusting relationships with representatives of these and/or other TNCs. If I am able to conduct further research in this field, I would also seek out other means of gaining information, including attempting to arrange interviews with former representatives of these brands and their suppliers, since staff who are no longer employed by these companies would hopefully have greater freedom to describe their experiences and express their views.

Ways forward?
Many organisations and individuals involved in research into and/or activism as part of the anti-sweatshop movement are pessimistic as to the value of voluntary systems of corporate regulation, and this perspective frames their proposals for how the movement

should go forward. While listing all of these individuals and organisations is beyond the scope of this chapter, it is worth noting a few examples. Jeff Ballinger, who was instrumental in starting and sustaining the campaign targeting Nike's labour practices, has long been critical of codes of conduct and multi-stakeholder initiatives. In an upcoming article he argues that rather than expecting companies to monitor labour rights in their own supply networks, labour activists should push TNCs to publish realistic statistics on their web sites regarding how effectively government officials are enforcing labour laws in countries where the companies' goods are produced. He argues that "pressure will then build for real enforcement by real inspectors".[295]

Dae Oup Chang, who previously worked for the Asia Monitor Resource Centre (AMRC) in Hong Kong and is now on that organisation's board, questions whether activism targeting individual corporations by consumers in the global North will bring significant benefits to labour movements in the South (AMRC 2004, pp. 102-117). He argues code initiatives rely too much on consumer movements in the global North to drive change in corporate practice, and marginalise workers and worker movements as passive recipients of the supposed benefits of external monitoring. Chang also draws on Marxist arguments regarding the relationship between profit and surplus labour to argue that, even in situations where consumers are mobilised in a highly coordinated manner, it will only be possible to gain leverage in relation to workers employed in the supply networks of large companies which both sell consumer goods and have dominant market positions. He argues consumer action is therefore of no benefit to workers employed in supply networks of companies in more competitive industries; to those employed in production of goods which are generally not purchased by individual consumers; and to those who are not employed in manufacturing for export (AMRC 2004, pp. 102-117).

As part of her work for the Hong Kong Christian Industrial Committee, Monina Wong was previously involved in efforts to persuade apparel, sportswear and toy companies to improve respect for labour rights in their supply networks, but she has since concluded

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[295] Ballinger e-mailed me a draft of this article on 31 Oct. 2007 (copy held on file). It has been accepted for publication by *Vienna Review*, the student newspaper of Webster University.

that such work is ultimately futile. She currently heads the organisation Labour Action China, which focuses instead on supporting campaigns by Chinese workers to persuade the Chinese government to improve and more effectively implement its labour laws, particularly those regarding health and safety. Labour Action China's work also involves pursuing litigation and other legal avenues on work injury compensation claims cases, conducting research and campaign work in support of collective disputes, and campaigning in Hong Kong for an improved regulatory framework for overseas investment by Hong Kong companies.[296]

Don Wells (2007) an academic at McMaster University and an active participant in debates about trade union responses to globalisation, argues self-monitoring of corporate codes of conduct has not and cannot lead to widespread improvements in respect for labour standards in corporate supply networks (see also Lipschutz 2004; Lipschutz & Rowe 2005). He believes it would be more worthwhile to pursue initiatives such as the Better Factories Program in Cambodia, which involves labour monitoring of garment factories by the ILO. This program was started as a result of contingent quota benefits granted by the Clinton and Bush administrations, and since the expiration of the Multi-Fibre Arrangement in 2005 has continued with funding from the World Bank, Agence Française de Développement (AFD) and Cambodia's main garment buyers (Wells 2006).

Other organisations and individuals involved in the anti-sweatshop movement have a different attitude to voluntary initiatives, one which I have characterised as "institutionalist". These groups share a commitment to achieving regulation of workers' rights by states and/or multi-state organisations and would likely support all of the suggested strategies discussed in the previous paragraph. They do not, however, agree that multi-stakeholder initiatives such as the FLA necessarily represent a self-defeating diversion from this goal. They would instead agree with institutionalist regulatory theorists such as Picciotto (2006, p. 12), who argues that by formalising "normative expectations and practices" voluntary schemes can make it easier to ultimately achieve

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[296] Personal communication (e-mail) from Monina Wong of Labour Action China, 6 Dec. 2007 (copy held on file).

regulatory arrangements based on hard law. As noted in Chapter 5, examples include the way the Baby-Milk Marketing Code has been incorporated into legislation in a number of countries; and the way the willingness of many German companies to voluntarily allow union representation on their supervisory boards helped pave the way for this to become a legislative requirement in 1976. Viewed in this light, campaigning for improvements in non-state regulatory initiatives can represent another means of working towards better protection of labour rights by states and multi-state organisations.

Many of the trade unions and anti-sweatshop groups which apply this institutionalist perspective are involved in the Play Fair Alliance (PFA), including the ITGLWF, CCC, MSN and Oxfam. In 2004 this campaign coalition proposed a "program of work" to the sportswear sector (PFAO 2004). This program included recommendations that sportswear companies negotiate a framework agreement with the ITGLWF; support and allow training of workers and factory managers in trade union rights; improve labour auditing by working closely with local labour organisations; increase transparency about labour conditions in their supply networks; and reform their buying practices because current practices are having a negative impact on suppliers' compliance with codes (PFAO 2004). Since 2004, organisations involved in the PFA have published reports assessing the extent to which individual sports brands have responded positively to and made progress in implementing, this agenda (CCC et. al. 2005; OI 2006). As noted in Chapter 5, groups involved in the PFA have also taken other steps to push sports brands to improve their labour rights compliance programs. In 2005 the ITGLWF convinced Nike to release the addresses of its factory suppliers, a step which several other sports brands have since emulated. In 2006 the ITGWLF persuaded representatives of Nike, Adidas, Puma and local sportswear suppliers to participate in meetings with local unions in the Philippines, Indonesia, Thailand and Malaysia. The CCC is involved with FLA, ETI, FWF, SAI and WRC in the JO-IN project, an attempt to build broad agreement across these five major multi-stakeholder initiatives as to which standards should be included in voluntary labour codes and how those standards should be monitored and enforced. Oxfam is planning to produce a policy paper with specific recommendations regarding how TNCs buying practices could be adapted to

offer rewards to suppliers which respect labour standards, particularly those relating to trade union rights.

How to get there?

I support all of these policy recommendations, and through my employment with Oxfam Australia I am involved in efforts to persuade sportswear brands to implement them. It must be admitted, however, that progress has been slow (see CCC et. al. 2005; OI 2006). The release of supplier factory addresses by Nike and some other TNCs since 2005 represents an important step. When TNCs make public the addresses of all their suppliers it makes them more vulnerable to investigation by journalists or activists, and increases the pressure on those TNCs to ensure labour conditions in those factories are decent. Despite this progress, as noted in Chapter 6 my conclusions regarding how sportswear brands' labour programs would have been more positive if this thesis had been completed in 2004 rather than 2007. As the Panarub case demonstrates, in the intervening three years Adidas has become less willing to take responsibility for determining whether its suppliers are violating trade union rights, a position which Nike also took in a number of the cases reviewed in Chapter 6. Since Adidas purchased Reebok in 2006 a number of senior Reebok compliance staff has left the company and Adidas has dropped some of Reebok's more progressive initiatives, including Reebok's commitment to limit the circumstances in which its suppliers could employ workers on short term contracts. It is positive that Nike worked with the FLA to support FOA in the Jaqalanka and MSP Sportswear factories, and Nike has done the same in a small number of other factories, including the Mexmode factory in Mexico. Recently, however, several other unionised garment factories have closed after Nike withdrew orders for business reasons,[297] a reminder that those few democratic trade unions which have managed to establish themselves in Nike-supplier factories are vulnerable to the flexibility inherent in Nike's current business model.

In research interviews I conducted in 1998, Pharis Harvey and Jim Silk—both of whom continue to sit on the FLA Board as NGO representatives—said they hoped the anti-

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[297] The closure of the BJ&B factory in the Dominican Republic is discussed in Chapter 6. See also discussion of the Lian Thai factory in Thailand in Oxfam International's *Offside*! report (OI 2006, pp. 3, 86).

sweatshop movement retained its dynamism and continued to be constructively critical of initiatives such as the FLA. They told me their ability to persuade the companies participating in the FLA to make progress on labour rights depended to some extent on the maintenance of that external pressure.[298] As discussed in Chapter 4, between 1996 and 2001 labour activists' work in documenting sportswear workers' stories, and the corporate response to those stories, generated many thousands of media articles. This media coverage generated further activism, with campaigners around the world using e-mail and other information technologies to build campaign networks which were polycentric and segmentary, but nonetheless sufficiently effective to pose a material challenge to the carefully crafted brand-image of Nike and other sports brands. Arguably it was this challenge which persuaded Nike, Adidas and Reebok to join the FLA and accept responsibility for improving labour conditions in their supply networks.

The analysis presented in this thesis makes it clear that, if they are to protect trade union rights, multi-stakeholder initiatives like the FLA must go further in their demands of participating companies. In particular, those companies need to absorb the costs of labour rights compliance and reward those suppliers who respect labour standards by providing them with higher prices, higher order volumes and longer term commitment. These more onerous demands need to be made of sportswear brands in a context in which the public pressure on them has fallen, with the issue currently generating hundreds, rather than thousands, of media articles each year. While the PFA's campaign in the lead up to the Athens Olympics in 2004 generated hundreds of community actions targeting sportswear brands, that campaign resulted primarily from the decision by several large global organisations, including the ICFTU, Oxfam and the CCC to make the issue a priority for that year. Labour campaigns targeting the sportswear industry currently lack the kind of spontaneous energy which was present in the period from 1996 until 2002 when, in addition to campaigns organised by large organisations,

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[298] Interview with Pharis Harvey in Washington DC, US, 1 Oct. 1998; Interview with Jim Silk, Washington DC, US, 6 Oct. 1998 (audio-tapes of both interviews held on file). Note that at the time these interviews were conducted the FLA was yet to be established, I interviewed Harvey and Silk in their capacity as NGO representatives in the pre-cursor to the FLA, the White House Apparel Industry Partnership (AIP). I use the term FLA rather than AIP to avoid confusion. As discussed in Chapter 5, in addition to public campaign pressure, Harvey believes the business case for more responsible labour relations will help persuade FLA companies to make improvements (Personal communication, e-mail, from Pharis Harvey, 16 Nov. 2007, copy held on file).

individuals and small groups took it upon themselves to organise diverse and sometimes very effective campaign actions. In a sign that Nike in particular is no longer feeling the heat, as of 2007, the only references in the company's web site to efforts to monitor suppliers' labour rights performance is in Nike's annual corporate responsibility report. In previous years Nike devoted a section of its site to the labour rights issue, including detailed explanations of its labour programs, pictures of factory conditions, and responses to criticisms from particular activist organisations. That section has now disappeared.

A possible cause of the movement's loss of energy is that it is failing to persuade large numbers of people that change is possible. As discussed in Chapter 4, research by della Porta and Diani (1999, p. 67) and Ronfeldt and Arquilla (2001, p. 328) indicates that people tend to be attracted to and to maintain their involvement in movements that give them a sense that their participation can and will contribute to making a positive difference, in the short term as well as over the long haul. More research needs to be done on the way in which stories told within the anti-sweatshop movement are affecting its strength and effectiveness, but at least one study of Australian university students suggests the stories reaching many potential activists are leaving them with the sense that participating in the campaign is "more trouble than its worth".[299] Conversely, the US student anti-sweatshop movement's focus on changing the policies of US Universities has allowed them to achieve and celebrate small but significant victories and these stories of success have given considerable impetus to their campaign. The challenge for the anti-sweatshop movement is to find ways to also achieve and celebrate small victories as it tries to push major corporations to improve respect for labour rights across their supply networks.

If the anti-sweatshop movement is to persuade TNCs to make deeper reforms, arguably the movement also needs to find ways to reward them for doing so. Notwithstanding the advantages of a loose, relatively unstructured form of organisation described in Chapter 4, arguably the lack of an agreed process by which the movement can recognise

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[299] I am referring to the unpublished survey conducted by Scott Bretton and Lotte ten Hacken of the University of Queensland, discussed in Chapter 4.

companies for making gradual and systemic progress has so far given the companies little incentive to make far-reaching reforms. Knight and Greenberg (2002) argue that:

> ...in response to Nike's attempts to manage the sweatshop problem via an issues logic, i.e. as a general problem requiring multilateral, long-term systemic resolution, the anti-sweatshop movement has employed a logic of rupture and immediacy. The micro-narratives that Boje (1999) has identified as a tool of anti-sweatshop activists acquire their force as part of the construction of a cumulative chain of dispersed, local crises.

Knight and Greenberg's comment fails to take account of the movements' multifarious attempts to establish systemic responses to the sweatshop issue. As discussed in Chapters 4 and 5, since at least 1996 labour activists have participated in numerous international conferences, meetings and e-mail discussions considering the merits of various ways of institutionalising cooperation between companies, unions and NGOs to oversee systems of verifying factory conditions.[300] Various NGO and union representatives also participate in multi-stakeholder initiatives such as ETI, FLA and SAI. However, while those multi-stakeholder initiatives reflect negotiated agreements between particular sets of unions and/or NGOs and particular sets of companies, they lack the support or endorsement of the wider movement, and some have drawn vigorous criticism from other unions and NGOs.[301] Hence companies currently have no guarantee that active participation in any multi-stakeholder initiative will improve their reputations. Public debates about the relative merits of these initiatives can also dissipate the energy of anti-sweatshop activism, since the focus of the news media shifts from the substantive issue of exploitative working condition to procedural, and less emotive, questions regarding how these issues can and should be addressed (Knight & Greenberg 2002).

Relatively broad agreement across the anti-sweatshop movement on a system of rating and/or ranking companies' progress on labour rights would give the movement a means

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[300] See for example CCC (2007b) for a discussion of the debates regarding codes of conduct, monitoring and verification within the CCC network and the conclusions which members of that network have drawn.
[301] See for example the critique of the SA8000 code and monitoring system by a group of Hong Kong trade unions and labour rights groups who collectively call themselves Labour Rights in China (LRC 1999).

of simplifying those procedural questions for a mass audience, without having to fully endorse one or other multi-stakeholder initiative. If large numbers of people could be mobilised to reward companies who make progress on this measure and criticise those who don't, such a rating system would provide companies with an incentive to make further progress. Assuming some companies responded positively to this incentive, this would help persuade activists and potential activists that change is possible, and encourage further activism and further pressure on companies to improve. This idea was debated in 2001, when Archon Fung, Dara O'Rourke and Charles Sabel argued the establishment of a "common metric by which to credibly compare companies" would trigger "powerful incentives to improve social performance" (Fung et. al. 2001, pp. 18, 25). Fung et. al.'s proposal, which they call "Ratcheting Labor Standards" (RLS), was strongly criticised. Many of these criticisms were grounded in a public interest regulatory perspective and warned that RLS would distract from efforts to push governments and inter-government agencies to protect labour rights (Basu 2001; Levinson 2001; Moberg 2001; Murray 2001). Other criticisms focused on the proposed system of measurement associated with the RLS proposal,[302] rather than on the idea of putting a measurement system in place (see for example Ayres 2001; Broad 2001; Bradhan 2001; Standing 2001).

Levinson (2001, pp. 54-5) directly questioned the usefulness of a ratings scheme, arguing such a scheme would not work because:

> …consumer demand for good and bad conditions is asymmetric. Firms do have a lot to lose if they are seen as sweatshop producers…[but] Consumer demand for worker-friendly products is elastic…The loss of revenue from consumers unwilling to pay more for a garment produced under good conditions, is not offset by those willing to pay more.

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[302] The RLS proposal would involve making external auditing organisations—including for-profit auditing firms—responsible for providing the data on which the rating is based, with these auditors themselves being accredited and monitored by a "super monitor" made up of representatives of key stakeholders, possibly facilitated by the World Bank, UN, or ILO. The RLS proposal further use the term labour "standards" in a sense which distinguishes them from labour "rights", arguing that inflexibly applying a rights-based approach would be inappropriate and potentially protectionist (Fung et. al. 2001, p. 6). I agree with Fung et. al. that a system of rating companies progress would be valuable, but do not support their model of how it should be done.

There is evidence supporting Levinson's argument that publicly branding particular goods as unethical can reduce demand for them; the success in Europe of the campaign against genetically modified food is a powerful example (Allen 2003, pp. 109-10; Roe 2006). A scheme which rated apparel and footwear TNCs labour practices would to some extent rely on this power of negative association, since the current lack of respect for labour rights in the industry would likely see nearly all TNCs falling well short of a score which indicated they were ensuring respect for workers' rights. There is a growing body of evidence, however, that consumers can also be mobilised to reward companies which offer ethically produced goods. Fung et. al. (2001, p. 15) cite several major surveys supporting this contention, including a 1999 telephone survey of 1 000 US consumers by Marymount University's Center for Ethical Concerns. The overwhelming majority of respondents to that survey, some 86 per cent, reported they would be willing to pay an extra dollar for a US$20 garment if they could be confident it was not made in a sweatshop (cited in Fung et. al. 2001, p. 15). It is reasonable to question the veracity of these surveys on the grounds that people may represent themselves in an unrealistically altruistic light to telephone interviewers (*BBC* 2007a), but the strong recent global growth in demand for fair-trade products demonstrates that ethically produced goods can attract consumers (*BBC* 2006b; 2006c). While this growth has admittedly been from a low base,[303] fair trade is becoming less of a niche market and is moving into mainstream retailing, particularly in the UK. In January 2006 the UK's largest clothing retailer Marks & Spencer announced it was introducing a range of clothes produced with fair-trade cotton. Over the last two years Marks & Spencer's vigorous promotion of this and other steps the retailer has taken to improve the environmental and social impact of its products has helped significantly enhance the companies' sales and profits (*BBC* 2006d; 2006e; 2007a). In November 2007 the major US clothing retailer Gap Inc. announced it was planning to label its products "sweatshop free", an indication the company believes this would enhance sales (*The Observer* 2007).

The increasingly sophisticated use of the internet and e-mail by some activist organisations is also building very large networked communities of progressive citizens.

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[303] In 2006 the global market for fair trade goods was US$2 billion, a 40 per cent increase on the previous year (*The Sun-Herald* 2007). In this thesis, billion is used in the US sense and means 1 000 000 000.

An example is the Australian left-wing campaign and lobby group Get Up which was founded in August 2005. By November 2007 Get Up had 220 000 members on its e-mail campaign list (Get Up 2007). Aid and Development organisations are also building their lists, and the international labour rights site, Labour Start, has over 50 000 members on its e-mail list (Labour Start 2007). If a number of those organisations could be persuaded to support a rating scheme then hundreds of thousands of people could be asked to reward companies who make progress and punish those who fall behind. While efforts to persuade consumers to reward more progressive companies would be an important aspect of making a rating and ranking scheme effective, such a scheme would also open up other forms of leverage over TNCs. Governments could be asked to use the rating scheme to guide procurement decisions; sportspeople and celebrities could be encouraged to only accept sponsorship from more progressive brands; and citizens in the global North could be discouraged from working for TNCs which were falling behind.

In order to be broadly accepted across the anti-sweatshop movement, the form which a rating and/or ranking system should take would need to be discussed among trade unions and NGOs from many different countries. Detailing how such a ratings scheme might work, and the process for establishing it, is beyond the scope of this thesis project. The analysis presented in previous chapters does, however, suggest a number of principles which could be applied. If Pharis Harvey's comment that a "trade union is the best monitor" is accepted, then the rating scheme should give very strong weight to trade union rights, on the grounds that ensuring respect for FOA will help to ensure respect for other labour rights. Trade union rights should be interpreted and applied in accordance with the ILO jurisprudence, to ensure that voluntary regulatory initiatives do not undermine international labour standards. The ratings scheme should encourage companies to provide incentives to suppliers who comply with these rights, rather than relying on threats to cut orders if those standards are not respected.

Assessing the extent to which FOA is respected can be particularly difficult in factories which are not unionised. The ratings scheme could potentially address this by rewarding TNCs which require suppliers to allow any interested trade unions and/or labour rights

NGOs to conduct training and education sessions for workers on factory grounds. The scheme would also need to tackle the various factors which undermine workers' ability to establish trade unions. The increasing informalisation of work in the sector could be addressed by rewarding companies which set strict conditions on the circumstances under which suppliers are allowed to employ workers on short-term or casual contracts. The ratings scheme would also need to assess whether companies' codes and monitoring systems were being enforced throughout their supply networks, including where production is further sub-contracted to outworkers or smaller factories. Another challenge would be agreeing on what steps TNCs can be expected to take to improve the freedom to associate of workers in countries which do not recognise or protect that freedom. The scheme might also reward TNCs who prioritise sourcing in countries which give legal force to trade union rights. This would need to be carefully designed: expecting TNCs to move out of countries or zones where independent unions are banned could cause considerable suffering to the workers who consequently became unemployed. TNCs could instead be asked to commit that they would not start any new buying relationships with factories in such countries or zones, and that they would cap orders to existing suppliers in those places.

The scheme should have a strong emphasis on field research. The only rating scheme currently being used by an anti-sweatshop network, the Transparency Report Card prepared by MSN on behalf of the Ethical Trading Action Group in Canada, relies almost entirely on information published by companies themselves. The issues assessed by ETAG's (2006) report card include the prominence given to ethical supply within a company's management structure; the quality and scope of a company's labour code; the extent of cooperation with trade unions and labour NGOs in order to audit and verify suppliers' compliance with standards in that code; and the extent to which suppliers' are offered incentives to comply. These are all issues which deserve inclusion in a ratings scheme. As the case-studies in Chapter 6 demonstrate, however, the way voluntary regulatory schemes are presented in company and multi-stakeholder initiative reports is not necessarily how they work in practice. Rigorous field research would make establishing and implementing a rating scheme an expensive and time-consuming activity, but would substantially increase its credibility. It may also reduce opposition to

a ratings scheme among labour activists who oppose non-state regulatory initiatives. Such activists argue voluntary initiatives undermine attempts to establish state regulation by legitimising exploitative labour practices. A ratings scheme substantially based on field research would help ensure TNCs only receive credit for labour initiatives which actually improve respect for workers' rights, and the scheme would delegitimise those which are primarily designed to protect companies' reputations without changing workers' conditions.

A role for scholars?

The methodological challenges associated with establishing such a rating scheme would be considerable. Like TNCs in many other industries, sports brands have extensive and complex supply networks. Assessing the effectiveness of companies' efforts to improve respect for labour rights across those networks would involve research issues similar to those discussed in Chapter 3, but on a larger scale. Any organisation taking on the task of implementing a rating scheme would, for example, need to decide how to identify which workers to approach for information; how to establish a relationship of trust with those workers; whether to adopt a participatory action research approach; whether to use interviews or some other survey method; how to ensure accuracy of translations; how to minimise the risk any workers participating in the study would face; and how to ensure workers fully understand those risks and decide for themselves whether they are willing to take them on.

As noted in Chapter 3, when a piece of research endangers corporate reputations, those corporations are likely to subject its methodology to intense scrutiny, and may well attempt to undermine its credibility. This makes it particularly important that the research methods employed are rigorous. Human geographers regularly wrestle with these kinds of issues and are well-placed to advise and assist activist organisations interested in developing an appropriate research strategy. For economic geographers, this kind of work would seem a useful extension of commodity-chain research, which aims to play a role in bringing "into contact the web of peoples involved in consuming and producing commodities" (Hartwick 1998, p. 433). Economic geographers working

in this field—which arguably would be better called commodity *network* research[304]—
have identified the complex and often exploitative political and economic processes
involved in the production and distribution of many apparently innocent commodities
(Coe et. al 2007, pp. 87-107). They have also described and analysed ethically-
motivated campaigns designed to challenge and change some of those processes, and
have critically considered the impact of interventions designed to address these
concerns (Coe et. al 2007, pp. 107-115). As noted in Chapter 4, however, informing
people about injustice without providing a means by which they can help redress it can
result in apathy rather than activism. Economic geographers who believe good research
should not only describe the world but also try and change it for the better may well be
interested in working with civil society organisations to develop means of rating
companies' performance on ethical issues, not only in the sportswear sector, but also in
the production of other commodities.

Mission accomplished?

As noted in the introduction, my goal for this thesis project has been to address three
inter-related questions. First, can the anti-sweatshop movement persuade TNCs to
voluntarily participate in processes which improve respect for workers' trade union
rights? Second, do these voluntary initiatives necessarily undermine attempts to achieve
international legal regulation of these rights? Third, how has the anti-sweatshop
movement managed to put so much public pressure on Nike and other sportswear
brands to improve labour conditions, and what does the movement need to do
differently in order to more effectively achieve its goals?

My answer to the first question has relied not only on my own and others' field
research, but also on theoretical insights from economic geographers, legal theorists and
discourse analysts who decentre popular conceptions of corporations and corporate
regulation. In broad terms, my field research in factories producing for Nike, Reebok
and Adidas has confirmed other research indicating voluntary regulatory systems have
so far brought only limited and tenuous improvements in respect for trade union rights.
Whereas many commentators conclude voluntary systems should be abandoned, my

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[304] See Coe et. al. (2007, p. 114) and Barnes et. al. (2007, pp. 12-13).

analysis of the labour disputes considered in Chapter 6 has led me to argue such systems could be effective if they were implemented differently. This argument is also based on the way human rights discourses have challenged and unsettled the dominant orders of discourse operating within Nike, Reebok and Adidas.

My answer to the first question is also influenced by my answer to the second. I believe voluntary systems of corporate regulation are worth pursing because they have the potential to assist campaigns to persuade governments to more effectively regulate corporations. My argument here has drawn on the work of institutionalist regulatory theorists, and their analysis of how other voluntary initiatives have influenced regulation by states.

To answer the third question, I have relied on the work of network theorists who study social movements, on my own participation in the anti-sweatshop movement, and on my interviews with other labour activists. The anti-sweatshop movement has effectively challenged the public image of TNCs by carefully documenting and promoting credible stories which convey to journalists and their readers the stark contrast between the companies' upbeat brand identities and the exploitative labour conditions in their supply networks. The movement has also effectively utilised communication technologies such as e-mail and the internet to reach large audiences, to coordinate global campaign actions, and to build cooperative relationships between different organisations and individuals involved in the movement. While a loose, networked form of organisation has contributed considerably to the movement's dynamism, I believe the movement would achieve more leverage in relation to TNCs if it could supplement this decentred approach to organising protest action, with a more coordinated approach to rating companies' progress in improving labour conditions.

While my conclusions are consistent with the evidence available to me, I recognise they would be more persuasive if I could also have achieved more direct access to the internal conversations guiding how Nike, Reebok, Adidas, and the company's suppliers, have responded to the FLA's regulatory system. Even so, I believe my conclusions

make valuable contributions to answering the questions posed, and leave it to future research to take those answers further.

Conclusion

In September 2007, as I worked on finalising this thesis, Robert Reich released a new book titled *Supercapitalism: The Transformation of Business, Democracy, and Everyday Life.* As US Secretary of Labour in the mid-1990s Reich played a key role in initiating the process which led to the establishment of the FLA. In contrast with his earlier views, however, this book is very critical of campaigns to persuade companies to improve their ethical performance, describing such campaigns as an "ersatz politics—a massive diversion from the real thing" (Reich 2007, p. 186). Reich argues technological advances have heightened competition between corporations, who now cannot afford to do anything which will undermine their competitiveness. He argues the only forms of Corporate Social Responsibility which have proved sustainable are those which have also enhanced company's profitability by reducing costs or increasing productivity. Since these efforts are sustained by the profit motive, he argues they would be adopted by companies even in the absence of public interest campaigns. He urges activists to abandon attempts to persuade companies to improve their ethical performance, and instead use evidence of corporate wrongdoing in campaigns for more effective state regulation of corporate activity.

As should be clear from the preceding seven chapters, although I agree the labour movement should push for effective state and inter-state mechanisms to regulate corporate respect for labour rights, I do not accept that voluntary regulatory initiatives necessarily undermine this goal. In one of the footnotes to Reich's (2007, p. 181) book he writes:

> Some consumer boycotts…have resulted in broadly accepted practices almost the equivalent of laws—such as a "Rugmark" label certifying that rugs and carpets have been made without child labour…One suspects, though, that if competitors could offer nonconforming items at much lower prices many consumers would be tempted to overlook their negative social consequences. If there is broad agreement on the desirability of such norms, it would seem advisable to put them into law.

From an institutionalist regulatory perspective, any voluntary scheme which helps build broad agreement on the desirability of particular norms, and which make practices which enforce those norms so well-established they become "almost the equivalent of laws", is likely to help rather than hinder efforts to persuade states to take responsibility for regulating that area of activity.[305]

In so far as the global apparel and footwear industry is concerned, even the more progressive non-state regulatory schemes are currently failing to normalise practices which substantially improve respect for trade union rights. In the sportswear sector, anti-sweatshop activists have used localised stories of sportswear workers' conditions in particular factories to great effect, challenging the public image of powerful companies like Nike, Adidas and Reebok and putting significant pressure on them to take responsibility for labour conditions in their supply networks. Close study of the labour initiatives which these companies have taken in response to this pressure, including their participation in the FLA, indicates these initiatives cannot be dismissed as cynical public relations exercises; some staff within these TNCs have taken seriously the task of investigating suppliers' compliance with labour codes. The current processes in place for persuading non-compliant suppliers to change their practices have not, however, proved adequate to materially improve respect for FOA for the overwhelming majority of workers who produce sportswear for these brands.

Labour rights campaigners who approach the issue from an institutionalist perspective are seeking to persuade these and other TNCs to make more far-reaching labour reforms, but have found it difficult to make headway in a context in which the energy and dynamism of anti-sweatshop activism has fallen from the intensity of the late 1990s. Their efforts would be enhanced if a relatively broad coalition of organisations and individuals involved in the movement could agree on and persuasively promote a rating system which tells a larger story about the extent to which individual TNCs are supporting workers' rights. While such a story should not exclude—indeed it should be

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[305] A broader question, beyond the scope of this chapter, is whether it is even desirable to regulate the employment of children and, if so, how that can be done in a way which avoids potential negative effects on child workers and their families (see Bardhan 2000, p. 51).

informed by—smaller stories of workers' struggles in particular workplaces, it would provide a broader framework within which those localised stories could be understood. If such a story could establish credibility in the public sphere, it could enable the movement to mobilise larger numbers of people to use their power as workers, citizens, consumers and investors to push corporations to support workers' right to organise and other labour rights.

The labour movement is currently a long way from persuading the world's governments to enhance international regulation of corporations' labour practices. To achieve that goal, arguably they need to not only build broader support for this kind of regulation among the world's citizens, but also undermine the unity and intensity of opposition to such regulation among global corporations. Public pressure on TNCs in particular industries to cooperate in effective non-state regulatory systems has the potential to further both of these objectives. For trade unionists and other labour activists it is one among a number of strategies which deserve further energy and attention.

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