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Publication Date

2003-08-30

**Regulation for the Rest of Us?
Global Social Activism, Corporate Citizenship, and the Disappearance of the
Political***

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Abstract

In the context of globalization, transnational social regulation is increasingly the product of private (as opposed to public) interventions into the sphere of global trade. In recognition of the widespread failure of corporations to sufficiently address the socio-economic externalities borne by workers (inadequate wages, poor working conditions, forced overtime, child labor, and lack of the right to free association), various non-governmental organizations have begun to design and implement systems of rules intended to influence corporations and bring to an end a transnational "race to the bottom." Drawing on publicly available materials, interviews, and fieldwork in Southeast Asia, I propose that what matters as much as improvements to life on the factory floor are "spillover" effects whose force extend beyond building walls into the broader society of the host country. I question whether consumer behavior alone can create the conditions in which workers will be free to exercise their rights as guaranteed by both domestic law and International Labor Organization conventions. I conclude that what is needed is greater interaction between global civil society and trade unions. For the moment, the basis for effective labor law—and regulation more generally—lies within states. Activists and civil society should focus on improving legal, political, and social conditions for workers in the host countries, rather than trying to affect corporate behavior through consumer pressure.

* David Newstone, Angela McCracken, and Michael Blackburn provided invaluable assistance in fieldwork and research for this paper. Funding for the project has been provided by the Institute for Labor and Employment of the University of California, the Non-profit Sector Research Fund of the Aspen Institute, the Pacific Basin Research Fund of Sokka University—America, and the Social Sciences Division of the University of California, Santa Cruz. This paper is based on materials from my forthcoming book, tentatively entitled *Regulation for the Rest of Us? Globalization, Governmentality and Global Politics*.

Regulation for the Rest of Us? Global Social Activism, Corporate Citizenship, and the Disappearance of the Political

Ronnie D. Lipschutz

I. Introduction

A critical set of issues arising from contemporary globalization* are those organizational, social, economic, and environmental externalities that accompany production chains undertaken across national borders (Lipschutz 2002). While globalization is much discussed in terms of the mobility of capital and production, its disruptive impacts on labor conditions and social organization are as important, if not more so. Such impacts include low wages, substandard working conditions, forced overtime, child labor, and lack of the right to free association (union organizing). I argue that these effects constitute *externalities*, in the standard economic sense, because workers are forced to bear their costs while producers benefit from not having to pay for higher standards.

These externalities are a consequence of major changes in the contemporary capitalist system of production, trade, sale, and consumption, associated with globalization. In historical terms, the present phase of capitalist expansion and development is only the latest in a centuries-old process of worldwide economic integration, and these effects are not new or unique. In combination with the rapid

* Several definitional notes: Throughout this chapter, I use the term *globalization* to denote both a material and an ideological/cognitive process. Globalization is *material* in the sense that it involves the movement of capital, technology, goods and, to a limited degree, labor to areas with high returns on investment, without regard to the social or political impacts on either the communities and people to which it moves or to those left behind. Globalization is *ideological* in the sense that such movement is rationalized and naturalized in the name of 'efficiency, competition and profit.' And, globalization is *cognitive* in the sense that it fosters social innovation and reorganization in existing institutions, composed of real, live people, without regard for the consequences. In all three respects, although globalization opens numerous political opportunities for social movements and other forms of political organization and action, a not uncommon result is disruption to existing forms of beliefs, values, behaviors, and social relations.

growth of international trade, consumption, and communication, however, we are seeing the broadest and deepest impacts yet on social, political, and economic organization and practices. In effect, through export of manufacturing operations, industrialized country corporations are recreating many of the working and operating conditions characteristic of the worst periods of the Industrial Age of the 19th and 20th centuries (Polanyi 2001).

To date, however, these externalities have not been extensively addressed either within the existing international system of regulatory conventions and regimes or by states themselves, where regulatory power is presumed to be vested. In recognition of the widespread failure of both states and corporations to address such effects and associated conditions, non-governmental organizations have begun to design and implement systems of rules intended to influence corporations and bring to an end an international “race to the bottom.” Capital has responded with what is called the “corporate social responsibility movement.” As a result, transnational social regulation^{*} is increasingly the product of private (as opposed to public) interventions into the areas of global trade, corporate behavior, and consumer preferences (Haufler 2001; Pearson and Seyfang 1002).

The campaigns and projects I discuss in this paper are directed primarily at American apparel companies and their subcontracting factories abroad and represent attempts to regulate the negative social impacts for labor associated with production of apparel, in developing countries, for U.S. and European markets. Such campaigns take several forms, including consumer education and boycotts, inducement of corporate “good behavior” through codes of conduct, auditing and monitoring of working

^{*} *Regulation* is meant to cover not only formal laws and codes but also customary rules (‘soft law’), norms, and practices within and across societies.

conditions in factories subcontracting for particular firms, and the establishment of unions in specific plants. It is often thought that these campaigns have significant impacts on labor conditions and empower trade unions, but it is not clear either theoretically or empirically that this is the case. Indeed, there are good reasons to believe that such campaigns and codes, if successful on their own terms, only serve to more deeply reproduce the arrangements that first gave rise to the conditions they are intended to address.

Drawing on publicly available materials as well as fieldwork and interviews undertaken in Southeast Asia during summer 2001, I contend in this paper that what matters as much as improvements to conditions on the factory floor are “spillover” effects, whose force extend beyond building walls into the broader societies of host countries. I question whether consumer behavior alone can create the conditions in which workers will be free to exercise their rights as guaranteed by both domestic law and International Labor Organization conventions. I argue here that reliance on market devices will necessarily fall well short of aiding efforts on the ground to effect a broader (political) transformation of the status and autonomy of workers, unions, and local communities.

I begin this paper with a general discussion of the conditions that have led to the imposition of so many externalities on apparel industry workers in developing countries. Next, I describe the “new international division of regulation” and campaigns intended to address these effects. In the third part of the paper, I report on findings and conclusions from research on and in Southeast Asia. Finally, I conclude with some proposals for greater interaction between global civil society and trade unions. For the moment, the

basis for effective labor law lies *within* states, and activists should focus on improving and implementing legal, political, and social conditions for workers in the host countries, rather than simply efforts to affect corporate behavior through consumer pressure.

II. Doing It! Globalization, externalities, and the state

As noted above, a major cause of contemporary social dislocation for host country labor can be found in recent changes in patterns of production, trade, and sale of commodities, manufactured goods, and knowledge associated with globalization in its contemporary material form. The organization of production has become much more complex, with raw materials, commodities, semi-processed materials, parts, and finished goods moving among locales and plants in different countries according to both interstate/interregional and intrafirm logics of comparative advantage (Gereffi 2002). As the forms and organization of production, trade and consumption have changed, a set of negative consequences follow. Following the terminology of neo-classical and resource economics (Pearce and Turner 1990), these can be called “externalities.” The standard economic definition of an externality is a cost or benefit that accrues to the producer of a good but for which she does not pay. The classical example is a factory owner who gets free use of the air and water as waste dumps and does not bear any of the costs of pollution.

Industrialized country clothing companies whose goods are produced under subcontract in low-wage countries enjoy a positive externality in the cost differential they realize from sourcing offshore (the costs to the workers involved are, evidently, of only limited interest; see, e.g., Klein 2000; Bonacich and Appelbaum 1000). Workers, lacking

bargaining power in a highly-competitive global system, yield up some part of the value of their labor beyond what would be the case were they organized. While low wages are generally rationalized through the concept of “comparative advantage” and relative factor costs, it could be argued that such advantage should not undercut the level necessary to the reproduction of both worker and household—that is, labor ought to receive at least a “living wage.” *The extent to which workers are underpaid relative to their income requirements—a level that is contested and challenged—results in an unjustified and possibly inefficient benefit to both producers and consumers.*

The imposition of such externalities need not be an inevitable requirement of the reorganization of production and capitalism; rather, it results from a deliberate and conscious decision by both capital and states to downplay such impacts and to disregard the embedded and largely-obscured capital accumulation and transfer that result. The reasons are not difficult to surmise: holders of capital tend to benefit from such transfers and have little interest in sharing profits with labor. Most governments seek foreign investment and pay greater attention to the demands of capital, except in situations in which labor appears to threaten political stability. Indeed, given the rise in attention to “shareholder value” and the exigencies of intra-corporate competition, corporations would be foolish, on their own, to use their profits to pay the costs of these externalities.*

But this is hardly a new phenomenon. What, then, has changed? During much of the 20th century, finished goods in the cloth and clothing industries were manufactured in factories owned and operated by the companies whose name appeared on those products. While many workers could not afford, even then, to purchase the clothing, they were,

eventually, able to organize for improved working conditions and better wages. But the competitive nature and thin profit margins in the clothing industry have motivated a continual search for ways of reducing production costs. Some of these methods were made illegal (child labor, piecework rates, minimum wage levels); others were not (automation; relocation; open shops). The claims made by capital have been that, even so, costs were too high and labor too strong and costly. The first response by corporations was to move production to locations with lower wages and unregulated labor standards, first within the United States, later in other countries. The second was to dispatch with production entirely.

Nowadays, many industrialized country apparel companies neither own nor operate any factories of their own; their role is limited to design, ordering, wholesaling and retailing. Instead of producing, they subcontract with specific plants—often owned by companies based in Japan, South Korea, and Taiwan—in host developing countries, such as Thailand, Indonesia, Mexico, and the Philippines (a practice generally known as “outsourcing”). Indeed, the assembly of articles of clothing may take place in several different countries, each one chosen for its particular cost advantage. The spreading out of the apparel production chain represents, in part, an effort to spread risk by externalizing it onto others. As Edna Bonacich and Richard Appelbaum (2000:9-10) point out in their work on apparel production in the Los Angeles area,

Much of the industry is driven by fashion, and sales of fashionable garments are highly volatile. The production of apparel is generally a risky business, which discourages heavy capital investment and limits the availability of capital for firms that want to expand or upgrade. The riskiness is augmented by time. Fashion can change quickly. Apparel manufacturers want to be sure that any

* Recent revelations of corporate malfeasance and corruption in the United States serve to illustrate the structural incentives to maximize both the reality and appearance of accumulation whenever possible. There is little reason to think that capital has much interest in sharing its super-profits with labor.

demand is fully met, but must be wary of overproducing garments that may fall out of fashion. The industry needs to be especially sensitive to changes in consumer taste, to respond quickly to these shifts, and to cease production in a timely manner.

It is in this light—the changing landscape of the global economy and industrial production as well as the volatility of demand for fashion—that the position of large U.S. and European apparel corporations, and their subcontractors should be seen.

The regulatory standards faced by individual corporations vary greatly among countries and production sites even though many states have ratified most if not all of the relevant basic conventions of the International Labor Organization. The owners of the factories where clothing is manufactured and assembled are, of course, obliged to observe the laws of the jurisdiction in which they operate. At the same time, however, no one is legally required to exceed the minima established by those laws and, if they can get away with ignoring those laws, there is no compelling reason not to violate them. Indeed, the absence of monitoring and enforcement of these laws by governments, the tendency of responsible agencies to turn a blind eye to violations of the law, and a general lack of political support for labor rights, only makes violations a necessary and normal part of “doing business” in a competitive global economy.

Such notional constraints on practices as may exist in host countries are further weakened by the practice of outsourcing and subcontracting. When apparel corporations do not own the plants with which they subcontract, they legally need not demand or require that relevant regulations be observed by their subcontractors, although they may, as part of an agreement with the subcontractor, require that certain rules, or “codes of conduct,” be followed (Fung, O’Rourke and Sabel 2001). But even these are weak constraints inasmuch as codes of conduct and corporate behavior are not very binding:

from one day to the next, subcontractors may post and remove codes of conduct as a function of whomever has ordered a specific production run.

One result of weak standards and minimal enforcement is the revival and globalization of the “sweatshop” model of manufacturing. The term is used to cover a broad range of operations and working conditions, ranging from small establishments to large plants. The U.S. General Accounting Office has defined a sweatshop as “an employer that violates more than one federal or state labor law governing minimum wage and overtime, child labor, industrial homework, occupational safety and health, workers’ compensation, or industry registration” (GAO 1994:1). This definition applies to operations in the United States; developing country status is not a prerequisite for their existence. As Bonacich and Appelbaum (2000) have shown, sweatshops are as much a function of industry structure as general economic development. To a significant degree, their existence is a result less of appropriate regulations or their weak enforcement than of corporate desire to wring maximum profit out of the deal.

III. Who’s Do It? The new international division of regulation

While concerns about the social and organizational externalities generated by globalization and under-regulated market activities have been most visible in the demonstrations and protests in Seattle, Boston, Washington, Geneva, Prague, and elsewhere, these are only the tip of the new global regulatory “iceberg” (see, e.g., Braitwaite and Drahos 1000). As states have shed their responsibilities in the area of labor protection, some are being taken up by other organizations and institutions, a growing number of which are private or semi-public, organized by civil society actors,

corporate organizations, and business associations (Cutler, Haufler, and Porters 1998; Cascio, Woodside, and Mitchell 1996; Haufler 2001). These are, for the most part, developing outside of the framework of already-existing interstate regimes—both the broad ones, such as the United Nations, World Trade Organization, International Monetary Fund, and others with more specific mandates, such as the International Labor Organization and various human rights conventions (Lipschutz 2002). I argue, in essence, that these regulatory projects, initiated by various groups, organizations, associations, coalitions, and corporations, operating under the rubric of “global civil society” (Lipschutz 1996) represent an effort to re-establish political authority over self-regulating markets (Polanyi 2001). Private and semi-public regulation are nothing new, even at the transnational level, but there are reasons to think that we are seeing something of a resurgence, and certainly an expansion, in the privatization of international regulation (Cutler, Haufler, and Porters 1998). In a sense, these arrangements constitute a “new international division of regulatory labor” (see Table 1).

Table 1: Some Current Global Social Regulatory Campaigns

Issue area	Sample of Activist Regulatory Campaigns
Women's rights	Amnesty International Campaign for Women's Human Rights
Climate	Climate Action Network
Forestry	Forest Stewardship Council; Forest Products Certification
Species diversity	TRAFFIC; Conservation International
Anti-big dams	International Rivers Network; World Commission on Large Dams
Toxics	WWF Global Toxics Initiative; Center for Ethics & Toxics
Anti-GMO	Campaign to Ban Genetically engineered Foods; Genetic-ID
Organic food	Organic Consumers Organization; IFOAM; Pure Food Campaign
Labor	Campaign for Labor Rights; Maquiladora Health & Safety Network
Tobacco	International Tobacco Control Network; Tobacco Free Initiative
Indigenous rights	Survival International; Int'l Indian Treaty Council
Child soldiers	Coalition to Stop the Use of Child Soldiers
Small arms trade	International Action Network on Small Arms
Land mines	International Campaign to Ban Land Mines
Trade monitoring	Global Trade Watch; Ethical Trading Initiative
Diamonds	Fatal Transactions International Diamond Campaign
Corporate accountability	As You Sow; Business for Social Responsibility
AIDS/HIV	Global Strategies for HIV Prevention

Private regulatory campaigns involve three forms of market-oriented activity. First, some publicize human and workers' rights violations in subcontracting plants in order to encourage consumers to boycott specific companies, generate pressure on market share and embarrass company executives. Second, some campaigns seek to develop certification programs whereby apparel produced under acceptable conditions may be labeled to this effect. Finally, companies are being urged to adopt and implement "Corporate Codes of Conduct," which stipulate a set of minimum working conditions that must be met in their own and their subcontractors' factories (see O'Rourke 2000; Fung, O'Rourke, and Sabel 2001; Haufler 1001). Each of these methods has advantages and drawbacks, but they all rely on market tools, rather than political ones, for implementation and effectiveness.

It is into regulatory gaps in the apparel industry that campaigners, such as those in the "anti-sweatshop" movement, have stepped. In the case of organizations campaigning with respect to the apparel industries in both the United States and Europe, the movement has gained growing visibility and support in its efforts to shame, cajole, bully or entice apparel companies into paying more attention to the conditions in their subcontractors' factories (Lipschutz 2002). For the moment, there are two broad segments to "clean clothes" movement. On the one hand, organizations such as the Fair Labor Association, an effort originally cosponsored by capital and the Clinton White House with the participation of a few non-governmental groups, and the Global Business Responsibility Resource Center seek to foster corporate good behavior and codes of conduct to be implemented in manufacturing plants. On the other hand, activist, pro-worker

organizations such as Sweatshop Watch in the United States and the Clean Clothes Campaign in Europe, attempt to use consumer boycotts and education to force companies to improve working conditions in factories. Groups in both sectors have also developed certification programs, whereby companies and factories will be inspected, monitored and given clean bills of health (when deserved), and whose logos can be affixed to products (examples are listed in Table 2).

Note that the primary mechanism through which these goals are to be achieved is not, however, through enforcement of existing laws in the host country or the promulgation of new regulations, either domestically or internationally. Instead, the incentive rests almost wholly on implied impacts on a company's market share and its profits. By threatening to reduce market share through their influence on consumer preferences, such movements are relying increasingly on economic means to achieve political ends (Lipschutz 1001). In this respect, activist campaigns can have an impact but, for the most part, *only on the targeted corporation and its subcontractors*. The extension of such social improvements to other companies and labor sectors within host countries is neither inevitable nor, it would appear, even likely. In other words, efforts that do not address the political context within which violations of labor and other social regulations are taking place—that is, within specific state jurisdictions—are likely to have only limited effects and, therefore, to impact societies only very weakly. I return to this matter below.

Table 2: Organizations engaged in private regulation in the apparel industry

Organization/campaign	Type/Membership			
	labor	NGO	corp.	univ.
AFL-CIO (http://www.aflcio.org/sweatfree/10_steps.htm)	✓			
UNITE (http://www.uniteunion.org/)	✓			
ICFTU (http://www.icftu.org)	✓			
Worldwide Responsible Apparel Production (http://www.wrapapparel.org/infosite2/index.htm)			✓	
International Collegiate Licensing Association (http://nacda.ocsn.com/icla/nacda-icla.html)				✓
Business for Social Responsibility (http://www.bsr.org/)			✓	
Lawyers Committee for Human Rights (http://www.lchr.org/labor/home.htm)		✓		
Fair Labor Association (http://www.fairlabor.org/)	✓?	✓	✓	
Campaign for Labor Rights (http://www.campaignforlaborrights.org/)		✓		
Clean Clothes Campaign (Europe; (http://www.cleanclothes.org/)		✓		
Sweatshop Watch (http://www.sweatshopwatch.org/)*	✓	✓		
Global Exchange (http://www.globalexchange.org/)*		✓		
NikeWatch (Oxfam Australia; http://www.caa.org.au/campaigns/nike/index.html)*		✓		
Press for Change Nikeworkers (http://www.nikeworkers.org/index.html)*	✓?			
United Students Against Sweatshops (http://www.usasnet.org/)				✓
Corporate Watch (http://www.corpwatch.org/)		✓		
National Labor Committee (http://www.nlcnet.org/index.htm)*		✓		
Ethical Trading Initiative (http://www.ethicaltrade.org/)	✓	✓	✓	
As You Sow (http://www.asyousow.org/)		✓		
Fair Wear (Australia; http://www.awatw.org.au/fairwear/)		✓		
Nat'l Mobilization Against Sweatshops (http://www.nmass.org/)		✓		
No Sweat (United Kingdom; www.nosweat.org.uk)		✓		
Maquila Solidarity Network (Canada) (http://www.maquilasolidarity.org/)		✓		
Workers' Rights Consortium (http://www.workersrights.org/)				✓
Global Alliance for Workers & Communities (Nike-sponsored; www.theglobalalliance.org)			✓	
Asia Monitor Resource Center (Hong Kong, PRC; http://www.amrc.org.hk/)				
Boycott Nike-Vietnam Labor Watch (http://www.saigon.com/~nike/)		✓		
Academics Studying Nike (http://cbae.nmsu.edu/~dboje/nike.html)				✓
Co-op America's Sweatshop.org (http://www.coopamerica.org/sweatshops/index.html)		✓		
U.S./Labor Education in the Americas Project (http://www.usleap.org/index.html)		✓		
SOMO-Centre for Research on Multinational Corporations (Netherlands; http://www.somo.nl/)		✓		
Commission for the Verification of Corporate Codes of Conduct (Guatemala; http://www.coverco.org/)		✓		
Verite (http://www.verite.org/)			✓	✓
Social Accountability International (http://www.cepaa.org/)		✓		

Source: Compiled by author and research assistants. URLs were current as of Oct. 17, 2002. Note that many companies have individual corporate codes and social responsibility programs; these are discussed in Chapter 5. An asterisk (*) indicates that Nike is one of the targeted corporations.

The campaign against Nike provides a particularly illuminating example of the breadth of such efforts (the following is based largely on Nike's corporate history; see Nike 2001). Over the past two decades, Nike has become one of the best known and most visible athletic shoe and apparel company in the world. It has done so not only because many athletes and sports-minded individuals have developed a strong preference for its shoes, in particular, but also because its advertising campaigns and celebrity endorsements have been so widespread. It was not always so. Originally founded in 1962 as "Blue Ribbon Sports," the company acquired its present name in 1972. Revenues went from about \$2 million in 1971 to \$1 billion in 1984, \$2 billion in 1989, to almost \$10 billion today, with a return on equity approaching 20%. In 1979, Nike claimed to hold 50% of the U.S. running shoe market although, as competition in sports apparel has become more competitive, the companies relative market share dropped. Nike may have been a pioneer in foreign apparel outsourcing; from the very beginning, it relied on foreign suppliers. In 1971, the company began to contract directly with factories in Japan to manufacture its shoes and, today, there are more than 800 Nike subcontractors in 50 countries around the world, employing more than 600,000 workers (Boje 2002; Nikebiz 2003). Only a few of these plants are located in the United States.

The number of groups and coalitions that target Nike has grown considerably, beginning with Jeffrey Ballinger's "Press for Change" campaign in the late 1980s, and including easily a dozen or more today (Bullert 2000a, 2000b; see Table 2). Under considerable pressure from these activists, Nike has taken great pains to publicize its activities on behalf of workers and to present a positive corporate image, one sensitive to

the demands of its critics and the working conditions in its subcontractors factories, as can be seen on its web site (Nikebiz 2001b). Over the past ten years, it has adopted a Code of Conduct and a Memorandum of Understanding setting conditions for its subcontractors (1992), signed on to the Athletic Footwear Associations' "Guidelines on Business Practices of Business Partners" (1993), hired Ernst and Young to conduct audits in selected overseas factories (1994), joined the Apparel Industry Partnership-Fair Labor Association initiated by the White House (1996), established a Labor Practices Department (1996), and agreed to pay minimum wage to Indonesian workers (1997). Nike has become a major corporate sponsor of Business for Social Responsibility (1998), announced that it would adopt U.S. OSHA standards at subcontractor factories (1998), and raised the pay of its Indonesian workers to \$6.07 a week (1999). Student monitors have been permitted to inspect plants (2000), and the company hire major global accounting firms to conduct labor and environmental audits of its factories. It requires that a subcontracting factory pass an audit before a contract is signed and, in cases where egregious violations are found, Nike will withdraw the contract. It is a cosponsor of the Global Alliance for Workers and Communities, a group funded by Mattel, the World Bank, the MacArthur Foundation, and the International Youth Foundation. In short, Nike seems to have responded in an exemplary way.

Alas! None of its efforts have been rewarded with a clean bill of health from campaigners. According to various reports, surveys, and studies, these many steps have failed to alter fundamentally conditions in the company's many subcontractor factories around the world. For example, a compilation of reports issued by the Union of Needletrades, Industrial and Textile Employees (UNITE) suggested that labor problems

continue in many plants producing goods for Nike (UNITE 2000). An analysis of the methods used by accounting firms inspecting and monitoring factory labor conditions and practices, written by MIT Professor Dara O'Rourke, who has accompanied auditors into factories, found that many violations and hazardous conditions are routinely missed or ignored (O'Rourke 1000). Global Exchange, an organization that, in 1995 gave approval to Nike's programs and was severely chastised for it, published a survey (Connor 2001) of the company's efforts for the period 1997-2000, and concluded that they were largely superficial. The clearest change came in the area of health and safety standards, but even these accomplishments were undermined by non-credible monitoring practices and a lack of transparency. Finally, notwithstanding arguments that the first company to "ratchet up" standards will be followed by others (Fung, O'Rourke, and Sabel 2001), there is only limited evidence that codes of conduct and improvements in working conditions and wages have had an impact on the attitudes of governments and factory owners with respect to workers' rights (see below).

Nike's responses suggest that it continues to be sensitive to consumer disapproval; what is less than clear is whether these campaigns have actually had the expected effect on the company's revenues or profits. In May, 1998, the value of Nike's stock dropped almost 27%, perhaps due to a decline in sales growth as a result of bad publicity (although the inference is correlational rather than causal). As can be seen in Table 3, the company's financials do not give a clear indication of any impact. Much of the decline in revenues and income during 1999 and 2000 is attributable to the 1998 Asian financial crisis. Revenues from the United States have stayed flat since the large increase between 1996 and 1997. While this might indicate some impact on consumers, the data

do not provide compelling evidence one way or the other. Generally positive media attention generated by Nike’s efforts—this despite the company CEO’s attack in 2000 on a student campaign at the University of Oregon and withdrawal of a sizable donation to the University—and the relative paucity of hard data from more than a handful of plants seem to have reassured consumers that problems are being addressed.

Table 3: Recent Financial Statistics for the Nike Corporation

For the year ending May 31	1996	1997	1998	1999	2000	2001	2002
Revenues (millions)	\$6,470	\$9,186	\$9,553	\$8,777	\$8,995	\$9,489	\$9,893
Geographic distribution							
United States	\$3,965	\$5,538	\$5,460	\$5,042	\$5,017	\$5,144	\$4,916
Asia-Pacific	\$735	\$1,242	\$1,254	\$844	\$955	\$1,110	\$1,212
Net income (millions)	\$553	\$796	\$400	\$451	\$579	\$590	\$663
Return on equity	25.2%	28.5%	12.5%	13.7%	17.9%	17.8%	na
Market share							

Source: NikeBiz.com financials (<http://www.nike.com/nikebiz/nikebiz.jhtml?page=15>)

IV. Does anyone do it?

A more problematic issue raised by the Nike case, and apparel campaigns more generally, therefore is the extent to which efforts by individual corporations, largely applied in selected sets of subcontracting plants, serve to change the fundamental *political* environment for labor in host countries. I take it as a given that working conditions and wages are important for individual well-being and satisfaction, and that there is no ethical reason for super-exploitation of workers when the cost of labor is such a small part of the retail price of a good. But while workers may be well-off in one or even a large number of factories as a result of the good works of corporate executives in far-away places, what legal guarantees do they have that these conditions will be protected or maintained, especially if the corporate contractor decided to do business elsewhere? Even if rights of free association are enshrined in national law, of what long-

term significance are near-term rights and benefits granted at the behest of a benevolent corporation? In short, how do changes in corporate behavior affect political conditions in the host country?

More to the point, there are good reasons to think that campaigns seeking to alter consumer and corporate behavior will not result in political effectiveness and social change on a country-wide scale. Notwithstanding economic and econometric models, social regulation is more than just a question of efficient allocation of resources. First, regulation inevitably means that both capital and consumers will have to pay the costs of internalization, which means that resources and income will be redistributed. The arguments and justifications for such redistribution must come about in the political arena, where warnings about costs should be tempered by concerns for justice and fairness. Inevitably such decisions are based on questions of power, which must happen within the jurisdictions where laws are debated, formulated, implemented, and monitored. Markets reflect decisions already made about power and assume, in effect, that only the distribution of wealth is important.

Global social regulations are not irrelevant to this process, to be sure; one version of the possibilities for effective global regulation can be seen, for example in the monitoring and enforcement mechanisms of the TRIPS (Trade-related Aspects of Intellectual Property) Convention of the World Trade Organization (Braithwaite and Drahos 1000). International regulatory conventions set normative standards to which states must adhere and, having ratified them, citizens can demand that governments observe them (Soysal 1994). But it is only through political action *within* jurisdictions that societies will come to recognize and acknowledge the need for social regulations and

accept them as a necessary part of global industrialization, development and economic growth.

A number of additional questions may be raised in this regard: If labor conditions are improved in one factory, what are the impacts on corporations' other operations within specific countries and without? If conditions for labor are improved in plants sub-contracting for one apparel company, does this lead to improvement in the plants subcontracting for others (sometimes, of course, one plant produces for more than one company)? If labor conditions are improved in the apparel sector of a given country, do they improve in other industrial sectors? And, most important, do selective improvements in some factories enhance the overall power of labor in relation to state and capital? That is, do market-based activist campaigns intended to impose global social regulation on transnational capital lead induce national governments to regulate the very markets in which social externalities of concern have emerged in the first place?

In other words, under activist pressure, apparel corporations may be seeking to impose codes of conduct on subcontractors in developing countries. They may be providing a variety of incentives to improve labor conditions in specific factories. They may even be paying wages above the legal minimum requirement and providing the space in which workers can organize (Connor 2001). This is all fine and well, but it is no more than would be expected of any enlightened business. But is there evidence, to date, that activist campaigns and corporate actions have resulted in major regulatory responses by states or a more supportive state stance toward labor, especially in terms of the right of free association?

For the purposes of this discussion, I call this effect—the general sector- and countrywide upward ratcheting of labor rights as a result of improvements in some plants—social and political *spillover*. These outcomes can be articulated as follows:

1. Effective spillover: Activist campaigns against American and European apparel corporations, and codes of conduct implemented within factories, do have social and political outcomes, that is, they result not only in the formal recognition of workers' rights to organize but also in actual improvement of labor's status in the country as a whole, evidenced by the formation and recognition of national, sector-wide, and factory-based unions and the enforcement of rules by appropriate state authorities, despite some disinclination on the part of the latter.

2. Partial spillover: States are willing to oppose powerful domestic and foreign interests in the effort to assert their sovereign right and authority to legislate and enforce social regulations, to establish capacity for some degree of control over the political conditions governing labor and other rights, and to not lose favor with foreign investors.

3. No spillover or active resistance: There is no evident spillover even though workers in some factories labor in improved conditions and have been able to organize within individual plants. This results either because states have not felt pressured to assert their authority in the area of labor rights enforcement, because they are successfully resisting such pressure as an infringement on their sovereignty and authority and/or because they fear losing foreign investment as well as political power.

If spillover is taking place, it should become visible in host countries as a result of (1) reforms instituted in specific factories, (2) emulation by other plants and enterprises not affiliated with contracting transnational apparel companies, (3) increased respect for workers by state and capital, and (4) growing public and private support for the right to unionize both inside the factory, across the apparel sector, and throughout industry. If there is no obvious spillover, or if evidence suggests that the state and capital continue to disregard labor laws and even violate them (by, for example, sending police into factories where strikes are taking place), it is reasonable to conclude that the campaigns and

corporate reforms have not had (as yet) a significant domestic social and political impact in the country as a whole.

The more likely result, I would argue, is some combination of these two outcomes, in which workers have organized independent unions in some factories, in which some sectors are being organized more broadly, and to which there continues to be resistance by both state and capital. Given that state recognition of workers' right to unionize took well over half a century in most industrialized states, it should not be surprising that unionization and upward ratcheting of labor standards might, so far, remain limited. I propose that evidence that campaigns and codes are having spillover effects within and across countries would suggest that market-based approaches to instituting labor rights are effective in accomplishing broad political change. Conversely, if evidence of spillover is weak or lacking, this would suggest that there are structural problems with applying market methods for political ends. In the final section of this paper, I explore the implications of this second proposition for market-based activism.

Doing the data

For the purposes of this paper, then, it is critical to address the question of spillover. Here, I do so from two vantage points. First, I focus on the status of workers' rights in the industrial sectors of four Pacific Rim countries—Indonesia, Thailand, Mexico, and the Philippines—as reported in international surveys of labor violations. Second, I report on fieldwork conducted in four Asian countries—Indonesia, Thailand, Hong Kong, PRC, and the Philippines—during the summer of 2001, when a graduate student and I attempted to document private and public efforts in Southeast Asia to

develop, introduce and enforce global regulations designed to address and curtail the harmful social, economic and environmental externalities that are commonly linked to globalization. During that trip, we conducted 39 interviews, with representatives of government ministries, international organizations, trade unions, and local and transnational non-governmental organizations (not all of these were related to the apparel industry). These interviews were, for the most part, unstructured and open-ended, although organized around a set of specific questions. Most of the interviews were an hour in length.

As seen in Table 4, below, three of the four countries in the Asian set have ratified most of the fundamental International Labour Organisation conventions dealing with labor rights and working conditions. Ratification does not indicate anything about domestic legislation, monitoring and enforcement or, for that matter, what kinds of unions have been organized where they are permitted and what degree of political power they might possess. Enforcement of relevant labor law is famously weak or wholly non-existent, even in the United States, which itself has not ratified all of these conventions.

Table 4: Ratifications of Fundamental ILO Labor Conventions

Convention	Indonesia	Philippines	Mexico	Thailand
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	1998	1953	1950	--
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	1957	1953	--	--
Forced Labour Convention, 1930 (No. 29)	1950	--	1934	1969
Abolition of Forced Labour Convention, 1957 (No. 105)	1999	1960	1959	1969
Equal Remuneration Convention, 1951 (No. 100)	1958	1953	1952	1999
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	1999	1960	1961	--
Minimum Age Convention, 1973 (No. 138)	1999	1998	--	--
Worst Forms of Child Labour Convention, 1999 (No. 182)	2000	2000	2000	--

Source: ILO 2001.

The International Confederation of Free Trade Unions (ICFTU) issues periodic reports for the WTO General Council on labor standards and conditions as well as annual

reports on labor violations in individual countries. The WTO has an interest in avoiding pressures to take on international labor regulation; hence, these reports are meant to indicate the degree to which member countries have been enforcing ILO conventions and other labor law. The following extracts are taken from the ICFTU's reports on each of the four countries.

Philippines: Although the law provides in theory for freedom of association, in practice inadequate labour inspection and non-enforcement of the law restrict and discourage trade union activities. The situation is particularly grave in the country's export processing zones where violation of the right to organise, depriving workers of trade union protection, is closely correlated with poor working conditions and non-compliance with labour and social protection legislation, including minimum wages.... Despite legislation banning child labour, there are nearly four million child workers in the Philippines.... (ICFTU 1999a).

Thailand: Employers—including multinational companies—are generally given ample scope to exclude trade unions from their operations or to render collective bargaining virtually impossible. The consequence is a comparatively low rate of trade union membership, leading in turn to low wages and poor working conditions, including an appalling occupational safety and health record. A draft revision of the labor law stands to violate further the ILO core conventions and make matters even worse. In the public sector, freedom of association is not respected.... Millions of children are at work in Thailand, in occupations ranging from agriculture to factory assembly work.... Despite constitutional provisions banning forced labour, it exists in various forms in Thailand including sweatshops targeting illegal migrant workers.... (ICFTU 1999b).

Indonesia: Significant improvements in Indonesia's respect for trade union rights took place after the resignation of President Suharto on 21 May 1998. In May 1998 the new government announced that workers could set up their own trade unions provided their establishment was in line with the law and the doctrine of Pancasila.... Several new union confederations emerged in the wake of the new law.... The new government has also promised that it would never again use the army to interfere into labour disputes. However, despite several statements and announcements by the Ministry of Manpower to this effect, reports of army involvement in disputes continued.... [Reports of union harassment, intimidation, and suppression have been numerous.] (ICFTU 1000a).

Mexico: [T]he legal registration of unions in Mexico is often impeded by the authorities, specifically by the local Conciliation and Arbitration Boards (CABs) which have sole authority to regulate union elections and handle all phases of labour dispute resolution... [and] often act to withhold or delay registration from unions that are hostile to government policy or to vested economic interests.... [W]orkers can be denied access to their own collective agreements and to internal union rules.... Where such abuses lead to

employer-dominated trade unions, registration requirements and election procedures have been used to prevent workers from forming new unions.... [T]he CABs have the power to declare strikes “legally non-existent,” leaving strikers vulnerable to being fired and to suppression of work stoppages by force.... Fierce resistance to attempts to organise trade unions by employers, colluding with local officials, remains a major cause for concern in Mexico’s maquiladora plants (ICFTU 1002a).

It is worth noting that none of these countries absolutely forbids workers from unionization and that some have vibrant and growing union movements, notwithstanding the resistance of state and capital.

The case of Indonesia is fairly typical in this regard. Under President Suharto, relevant legislation appeared to be pro-labor. In practice, however, only one pro-government labor union was permitted, and all others were banned. Workers were nonetheless very active and often struck against employers—there were almost 200 strikes recorded in 1992—but these took place, for the most part, in individual factories, since national unions were not permitted to form. Even as the regime began to crumble in the aftermath of the 1997 Asian financial crisis, and notwithstanding Suharto’s re-election to the Presidency in 1998, the government continued to suppress trade unions and arrest union officials. This all changed after Suharto resigned.

Under the new government, union activity began to increase substantially. By 2003, there were some 60 labor federations in Indonesia, 140 unions and more than 11,000 company-level unions, covering perhaps 11 million workers (*Jakarta Post* 2003). According to the ICFTU’s latest report on the country,

Private sector workers are by law free to form workers’ organisations and draw up their own rules. Under the Trade Union Act adopted in 2000, unions must be registered with the Manpower Ministry. They are required to have at least 10 members, a reasonable limitation by international standards. There can be more than one union at a workplace. Those who prevent a worker from joining a union are liable to a fine or imprisonment. The law gives civil servants the right to organise, which they did not have before (ICFTU 2002b).

This does not mean that unions now have a free hand to organize; according to the ICFTU,

The Chairman of the Indonesian Prosperity Trade Union (SBSI), Muchtar Pakpahan, said that relations between government, big business and workers were still tense. Frequently when workers try to set up trade unions, companies either fire or demote union leaders and members, making workers afraid to organise or join a union. Trade unionists also cite a growing number of attacks on their organisers by paramilitary groups supported by the military and police and paid for by employers to intimidate workers or break strikes (ICFTU 1002b).

In each of the four countries, the textile and apparel industries employ a substantial number of workers but, in aggregate, this comprises only a fraction of the total labor force. Indonesia follows this pattern (Table 5). In 2001, workers in textiles and wearing apparel comprised about 9 per cent of total employment in “medium and large scale manufacturing,” defined as more than 20 employees per plant, and slightly more than one per cent of the entire labor force, defined as people over 15 years of age. If the fraction of textile and wearing apparel workers in small and micro establishments is also about 10 percent of the total, then about 1.7 million Indonesians, not quite two percent of

Table 5: Employment in the Indonesian Textile and Apparel Industry

Sector	1999	2000	2001
Textiles & wearing apparel, # of medium & large plants	1,074,069	1,114,363	1,114,893
	4,269	4,285	4,312
Medium & large manufacturing total*	11,515,955	11,641,756	12,086,122
	22,070	22,174	22,648
Small & micro manufacturing total**	6,116,269	6,291,441	Not available
	2,514,816	2,598,704	
Total labor force & unemployment rate	94,847,178	95,650,961	98,812,448
	6.36%	6.08%	8.10%

*Medium is defined as having 20-99 employees; large as more than 100 employees

**Small is defined as having 5-19 employees; micro as 1-4 employees.

Source: BPS Statistics Indonesia, various tables (www2.bps.go.id/index/shtml, 10/22/02).

the total labor force, are employed in this sector. It also seems safe to say that there are no unions at all in the small and micro establishments, and that there are no sectoral trade unions seeking to organize this group of workers.

What inferences can be derived from these statistics? First, they do not appear to reflect the economic downturn following 1997, although unemployment rose in 2001. This rise might be the result of disinvestment, political instability, or the developing recession in the West. But, according to another source, “up to half the workers in footwear and non-garment textile industries were retrenched” (fired) during the last few years of the 1990s (Symonds 1000). It is also clear that a vast number of underemployed—perhaps several tens of millions—do not appear in the official numbers. Second, notwithstanding the fairly large number of trade union federations and individual syndicates, no more than 10 to 15 percent of the industrialized labor force is unionized (*Jakarta Post* 2003). This suggests that the actual number of workers in the textile and apparel industries who have been able to exercise their right of free association remains quite low. Third, the large pool of reserve labor, combined with government indifference as well as frequent violations of labor law, greatly complicate broad organizing efforts. The extent to which codes of conduct have, therefore, facilitated union organizing in the textile and apparel sector is difficult to assess but is quite clearly limited. Unionization efforts are further obstructed by the ability of apparel companies to relocate production to countries, such as the Peoples Republic of China, where wages are lower and the right to unionize is restricted or even banned.

The extent to which efforts to establish both plant- and industry-wide unions can be delayed, diverted, or defeated is visible in a specific case from the *maquila* zone on the

Mexican side of the border with the United States. As noted above, Mexico has signed the relevant ILO conventions, has passed into law a lengthy labor statute, and is required, under the terms of the NAFTA side agreement on labor, to submit complaints regarding working conditions to adjudication by a binational panel. During 1997 and 1998, however, efforts by workers to unionize in the Han Young factory in Tijuana, a subcontractor building truck chassis for the Hyundai Corporation, were repeatedly denied by management, labor unions associated with the PRI, and local and state government agencies and officials (Williams 1998, 2000). Despite transnational, cross-border activism and public relations, an independent workers' union was co-opted and the plant was, eventually shut down.

In another case, in 2000, involving the Kuk-Dong (now Mexmode) factory in Puebla, workers were able to organize an independent union, but only after strikes and negative publicity for the contracting manufacturer. As the ICFTU reports it,

Eight hundred workers went on strike to protest the firing of five co-workers for having complained about working conditions and demanded the right to form an independent union. The strikers occupied the factory for three days, at which time State police in full riot gear stormed the plant. The unarmed workers put up no resistance, still the police beat them so severely that some 15 workers had to be rushed to hospital for treatment. An agreement was reached two days later for the strikers to return to work without recrimination, but the employer immediately reneged on the agreement and forced 300 workers to offer their resignation, thus foregoing severance pay. The union has since been recognised and the workers reinstated (ICFTU 2002a).

Having attracted so much attention by its actions, the factory management has recently signed a new contract with the union representing workers at the plant, and Nike has placed a large order in recognition of “substantial progress at the factory toward Code of Conduct compliance” (Clean Clothes 2002).

Governments remain reluctant to use available tools, such as access to markets, as a means of pressuring host states to enforce their existing labor laws. There is at least one case, however, in which labor rights conditionality was imposed by the United States on one of its trading partners. In 1999, the American embassy in Phnom Penh signed a bilateral textile agreement with the Cambodian government in connection the import quotas established by the United States under the terms of the Multilateral Fiber Agreement. This agreement includes a section which addresses labor standards explicitly, to wit:

The Royal Government of Cambodia shall support the implementation of a program to improve working conditions in the textile and apparel sector, including internationally recognized core labor standards, through the application of Cambodian labor law.

The Government of the United States and the Royal Government of Cambodia shall conduct not less than two consultations during each Agreement Year to discuss labor standards, specific benchmarks, and the implementation of this program.

The agreement further links labor practices to the quota, as follows:

Based on these consultations and other information regarding the implementation of this program and its results, the Government of the United States will make a determination by December 1 of each Agreement Period, beginning on December 1, 1999, whether working conditions in the Cambodia textile and apparel sector substantially comply with such labor law and standards. If the United States makes a positive determination, then the Specific Limits as set forth in paragraph 4 and Annex B shall be increased by 14 percent for the Agreement Year following such certification. The increase will be in addition to the annual growth provided for in Annex B. Any increase granted under this paragraph will remain in effect for a subsequent Agreement Year if and only if the United States makes a positive determination by December 1 of the previous Agreement Year. Moreover, if the United States Government determines that, subsequent to an affirmative determination, the Royal Government of Cambodia has taken or has failed to take major action resulting in a significant change in working conditions, then the Government of the United States may withdraw such an increase (OTEXA 1999).

As a consequence of this agreement, in May 2000, the Cambodian Government, the Garment Manufacturers Association of Cambodia, and the International Labour

Organisation agreed to establish a project to monitor working conditions in the apparel industry. The United States subsequently increased Cambodia's textile import quota over the normal increase of 6%, as stipulated in the original agreement (USTR 1001). At the end of December 2001, the bilateral textile agreement was extended through the end of 2004, and a further nine per cent increase in the import quota was added (American Embassy 1002).

No other bilateral textile agreement includes such a provision, according to the listing of such agreements on the web site of the U.S. Office of Textile and Apparel Agreements (OTEXA 2003)—and there is some reason to think it is illegal under WTO rules. The free trade agreement between the United States and Jordan, signed in October 2000, did, however, stipulate that both countries would enforce their own domestic labor and environmental laws. According to the agreement,

These provisions will not require either country to adopt any new labor or environmental laws, and each country retains the right to set its own labor and environmental standards and to change those standards. As part of the agreement, the two countries affirm the importance of not waiving or derogating from their labor or environmental laws in order to encourage trade, and commit to effective enforcement of their domestic labor and environmental laws (White House 1001)

Under the terms of the agreement,

If one country fails to do so [i.e., enforce its own laws], the other can ask a neutral international panel to review the situation, and if such a failure is found, the complaining country can deny certain trade benefits or take other appropriate steps to bring the offending country into compliance with its labor and environmental commitments (Polaski 1002).

According to some, this agreement should be a model for future free trade agreements between the United States and other countries (Polaski 1002). But it ought to be recognized that such stipulations hardly reflect symmetrical power relations. It is quite

improbable that Jordan will ever pressure the United States to hew more closely to its environmental and labor laws (or commitments made under international law).

Doing fieldwork

The evidence provided above, while pointing only to limited spillover at best, does not really say anything about general trends in the five countries. Perhaps it is too soon to come to conclusions about the political effectiveness of campaigns and codes. Or, perhaps the data need to be acquired through some other means. There is a notable lack of information about the sector-level effectiveness of codes of conduct and impacts of activist campaigns on host countries, although inspections of individual factories suggest some limited improvements (e.g., O'Rourke 2000; Connor 2001). Interviews in Asia tended to suggest that spillover remains quite restricted and that codes of conduct in individual factories tend to have limited impacts beyond plant walls. Among the conclusions drawn from this fieldwork are the following:

1. Corporate codes of conduct at the factory-level are:

- Most influential symbolically, providing an opening for mobilization by helping to persuade workers that future improvements are possible;
- Occasionally used as a bargaining tool in labor negotiations, inducing concessions by management fearful of outside involvement;
- A source of support for worker resolve, especially in cases where companies openly fail to honor their publicized pledges and workers believe that the force of conscience can be used to their advantage;
- Not a barrier to corruption, which remains a major problem, especially in the context of widespread bribery and nepotism, as well as notoriously poor monitoring of violations; and
- A potential threat to the jobs of low-paid workers under conditions of high unemployment, inasmuch as improved labor standards mean little to those who are faced with the loss of their only source of income.

2. So far as the nature and extent of 'spillover' effects are concerned:

- In theory, the ratification of international conventions means that countries are required to respect them but, in practice, such endorsements carry very little weight;
 - The wider labor force and community remain unaffected by changes to specific workplace rules, inasmuch as their limited force does not extend beyond the walls of the local factory;
 - In contravention of International Labour Organization conventions, union rights are heavily restricted by government authorities; efforts to organize unions are frequently met with resistance, while legal protests in state-run industries are usually halted violently by police; and
 - Contempt for the domestic rule of law remains pervasive, as existing regulations are ignored by state authorities and worker grievances are summarily dismissed; and
 - The potential for social unrest in conditions of rising unemployment encourages national governments to prioritize job creation, with quantity trumping quality.
3. Where relations between transnational NGOs and local trade unions are involved:
- Care-taking interventions do not help to raise the consciousness of workers or to demonstrate the merits of self-leadership; in the interests of long-term change, there must be a greater focus on empowerment
 - Inasmuch as a preoccupation with conditions in the workplace can lead to neglect of such critical issues as education, health, and safety, unions want NGO training and assistance to foster an overall improvement in workers' quality of life;
 - NGOs too often view trade unions only as mediators, whereas they are, in fact, a promising source of strength for workers whose greatest weaknesses are the lack of a unified voice and limited organization;
 - While many transnational NGOs are deeply skeptical of international conventions whose enforcement lies in the hands of particular states, the unions themselves believe that the future of effective labor regulations is to be found at the national level; and
 - The distributive inequalities that are linked to globalization (and justifiably condemned by NGOs) are frequently ignored by national unions whose particular mandates and bounded constituencies blind them to the regional nature of their struggles. Potential allies in a fight for social, political, and economic rights (groups of exploited workers in neighboring countries) are often working at cross-purposes, viewing one another as competitors in a zero-sum game in which the unfavorable terms—as decided upon by major corporations—are wholly non-negotiable.

In short, on the basis of our meetings and interviews, we found only limited signs of spillover. Locally, there is broad awareness that, notwithstanding transnational campaigns and activism, the basis for effective labor law lies *within* states. Therefore, NGO activism should focus on improving legal, political, and social conditions for

workers in the host countries, rather than trying to affect transnational corporations through consumer pressure and demands for corporate good behavior. Despite the pressures of international economic competition, the fight for workers' rights is always a political one, and what is required is greater interaction between global civil society, *national* trade unions, and *national* politics. There are some indications that this is beginning to happen, especially as unions in the North come to realize that their survival depends not on protectionism but alliances with workers in the South.

The effects of global civil society campaigns are both controversial and uncertain. Some critics argue that social regulatory standards are a "cultural" feature of specific societies and should not be subject to global harmonization. Some economists point out that labor regulation would reduce the economic attractiveness of host countries, undermine their comparative advantage in low-cost labor, and increase unemployment. Some corporations resent being ordered around by consumers. But even supporters of these campaigns find much to be desired in the consequences of civil society pressures on apparel companies. Many subcontractors have begun to set up model factories, in which the work environment and wages are quite attractive, and to which visitors can be taken while, just down the road, other plants operate under appalling conditions.

Of course, if one company's implementation of its code of conduct in, for example, Vietnam leads to all other in-country apparel factories adopting the code, and the government of Vietnam monitors and enforces it, and manufacturers choose not to relocate to places with weaker regulation, some degree of social regulation will have been accomplished. Nonetheless, at the end of the day, it remains difficult for consumers to always purchase ethically, corporate good behavior is limited in what it can accomplish,

and actual enforcement of labor law remains largely within the purview of national governments, who want little to do with social activism.

VI. What can we do?

As any number of commentators have noted, under conditions of globalization, rules are often promulgated at the international level, but deployment remains within the purview and jurisdiction of the state. States are expected to legislate domestically the laws to which they have agreed in international forums, and to see that they are implemented and enforced domestically. There is, of course, little in the way to ensure that the last two steps of the procedure are followed and, in fact, no great expectation that they will be. For the most part, when international sanctions of one sort or another are imposed on states that violate international law, governments may decide whether the costs of disobedience are acceptable or too high, and respond accordingly. Thus, a state that has signed and ratified those International Labor Organization conventions addressing workers' rights of free association is under no serious international compunction to fulfill the terms of these conventions, and certainly is not expected to assist actively in their fulfillment.

Under these circumstances, those who would like to see active domestic fulfillment of international law appear to be reduced to two basic strategies. The first is to induce those who are subject to the laws in question to live up to the terms of those laws. Thus, for example, corporations that operate factories in which workers' rights are routinely violated may be pressured, via various market mechanisms, to obey those rules and laws. The second is to work within domestic political settings toward effective and

active state implementation and enforcement of relevant laws. There is no reason, of course, that both strategies can not be pursued in common but, as seen in this paper, the first approach is increasingly popular, a direct result of what I call the “expulsion” of politics from global life.

Is this so terrible? Politics, it must be admitted, have come to be seen as a realm of corruption, double-dealing, and personal enrichment. Politicians, of whatever stripe, are regarded as wholly self-interested, power-seeking individuals with no conception of, much less regard for, a common good. Governments are routinely purged in the hope that a new regime will be an improvement, but there is little empirical evidence to suggest that this is more than empty faith. As a result, social movements, non-governmental organizations, and corporations—global civil society—have come to be seen as the “last, best hope” by those intent on providing public governance for general improvement in the lot of those in need of help. Such a hope might not be entirely in vain, but those holding it tend to overlook the political relationship between civil society, state, and market and the role that politics must play in shaping and constraining markets.

The state is central to the shaping and constraining of markets. As Robert Boyer and Daniel Drache put it,

The idea that markets have multiple, continuous and contradictory effects, and hence are unstable structures and subject to the constant need for organization and reorganization, is due to the fact that they emerge out of social relationships.... [M]arkets are like open-ended social spaces constantly subjected to spontaneous countermovements by producers, consumers, owners, workers and government threatened by the price system’s rapacious excesses. When the price system does not work *ex mirabilis*, society must rely on the state to find ways to stabilize it and the larger economy (1996:11).

Without some kind of form or limit, markets quickly degenerate into an economic “state of nature.” Boyer points out that, in the absence of monetary and legal systems, both of

which are imposed by some kind of authority, “any market will collapse due to the spreading of opportunistic behavior among traders” (1996:101). In democratic market systems, in particular, civil society provides and supports the values that underpin the specific form of and limits on markets, and its members expect the state to follow its dictates in this regard (not that this always happens). It is in this context that the restoration of politics to global life becomes critical, not because it can create miracles but because it can show us what is missing from a society governed so strongly by market concerns and principles.

Markets are particularly weak arenas in which to seek political goals. While some argue that there is such a thing as “private” political power, which can be accumulated through the market, this seems a somewhat oxymoronic concept. Politics is, by definition, a public, collective endeavor, while markets involve private exchange between individuals. Politics is based on the aggregation of the power, which markets eschew. And market-based politics rests primarily on attempts to alter the preferences of large numbers of consumers in order to put pressure on producers. Because consumer preferences are not political and are strongly-influenced, if not determined, by the very system of production and consumption that motivates the social disruption and externalities of concern, there is a certain tautological process at work here. If capital is able to acquire political power, it is more a form of displacement than an alternative: the “corporate citizen” becomes, in a sense, a franchisee able to cast a vote using its dollars.

The core problem has as much to do with the effects on “citizens” of this rupture in politics as it does with questions of distribution and access to entitlements or the proper behavior of corporate actors. To a growing degree, the subject of democratic

politics has become the object of totalitarian markets. Consumer has replaced citizen, choice in the market has displaced sovereignty in politics. We select our representatives much in the same way as we select cereal, laundry detergent or, as Milton Friedman once put it, “the color of our tie.” We have come to believe that, in line with Smith’s argument about the benefits of a division of labor, politics consists of selecting that which is to each one’s greatest advantage in the hope that some kind of Invisible Hand will generate a greater good. No wonder there is a widespread belief that corporations acting individually, through codes of conduct, can aggregate to better political outcomes without all the fuss and bother of politics.

This is not, of course, an original argument: for generations, if not centuries, people—usually conservatives, in both the old and new senses—have complained about the corrosive social effects of allowing individual appetites to gorge on self-interest. Their answer has been to return to the “old values,” under which the lower classes were kept in their place and excluded from political participation. My argument comes from a different direction: in order to secure the stability necessary for capitalists to invest and capitalism to thrive, political actors must be distracted, and consumption is the way to accomplish that end. Bread and circuses for all!

There are, I think, alternatives to politics via markets. In *Global Civil Society and Global Environmental Governance* (1996), I suggested that GCS ought to be viewed not simply as an agglomeration of transnational organizations seeking to regulate and moderate the rougher edges of the international system, thereby participating in governmentality (Foucault 1980; Dean 1999). I also proposed that what was most important about GCS were the *local* politics of groups and activists, focused on specific

places but informed by a globalized epistemology. To put this another way, the key is getting people to take action in those places and spaces where they can exercise some degree of group sovereignty, doing so in full awareness that other groups are acting similarly in other places and spaces. In this way, they also engender and experience what a democratic politics is meant to be, and they learn what is missing. At the end of the day, politics ought to be informed by some kind of ethics, one that cannot rely solely on another form of aggregation to ensure progressive or beneficial outcomes. Without such a politics, there will not be much that we can do.

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