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**TRANSNATIONAL CORPORATIONS, CORPORATE  
BEHAVIOUR AND CORPORATE SOCIAL RESPONSIBILITY  
AND THEIR ROLES IN DETERMINING LABOUR CONDITIONS  
IN DEVELOPING COUNTRIES - A CASE STUDY OF THE  
LABOUR CONDITIONS EXPERIENCED BY NIKE CONTRACT  
WORKERS IN VIET NAM.**

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## TABLE OF CONTENTS

Table of Contents.	ii
List of Boxes and Tables.	vi
Abstract.	vii
Acknowledgements.	ix
Abbreviations.	x
 <b>Chapter I: Introduction.</b>	 <b>1</b>
1.1. Introduction.	1
1.2. Thesis Outline.	3
1.3. Development Models.	5
 <b>Chapter II: Transnational Corporations, Corporate Behaviour and Development.</b>	 <b>8</b>
2.1. Business Enterprises and Transnational Corporations.	9
2.2. Current Transnational Corporation Behaviours – Transformed Corporate Structures and Processes.	10
2.2.1. Corporate Politicising.	11
2.2.2. Technological Innovations.	13
2.2.3. Innovations in Production.	14
2.2.4. Sub-contracting and Export Processing Zones.	15
2.3. Sweatshop/Low-Cost Labour and its Impacts on Workers.	17
2.3.1. Negative Impacts.	19
2.3.2. Positive Impacts.	21
2.4. Impacts of Transnational Corporation Behaviours on Developing Countries.	23
2.4.1. Negative Impacts.	24
2.4.2. Positive Impacts.	25

2.5.	Transnational Corporations and Development.	27
2.6.	Conclusion.	30

### **Chapter III: The Environments in which Transnational Corporations Operate. 33**

3.1.	Determinants of Corporate Behaviour.	34
3.2.	Internal Environmental Factors.	34
3.2.1.	Corporate Goals and Ethics.	34
3.2.2.	Organisational Culture.	36
3.3.	External Environmental Factors.	37
3.3.1.	National and International Competition.	37
3.3.2.	International Economic Regimes.	38
3.3.3.	Foreign Policy Agendas.	43
3.3.4.	International Organisations and Agreements.	46
3.4.	Core Labour Standards.	50
3.5.	Regulation of Core Labour Standards.	51
3.6.	External Regulation.	52
3.6.1.	Governments.	52
3.6.2.	International Organisations.	53
3.6.3.	Civil Society.	59
3.7.	Internal Regulation.	62
3.7.1.	Market Forces.	62
3.7.2.	Corporate Self-regulation.	62
3.8.	Corporate Social Responsibility.	65
3.8.1.	Corporate Social Responsibility and the Corporate Charter.	67
3.9.	Conclusion.	70

<b>Chapter IV: Case Study – Viet Nam – Socio-Economic Development and the Garment Industry.</b>	<b>72</b>
4.1. Background - Viet Nam.	73
4.2. Economic Reforms – Doi Moi.	74
4.3. Socio-Economic Development.	75
4.4. Foreign Direct Investment in Viet Nam.	79
4.5. Foreign Direct Investment and the Vietnamese Garment Industry.	81
4.6. Labour Conditions in the Vietnamese Garment Industry.	84
4.6.1. Wages and Hours/Days of Work.	85
4.6.2. Health and Safety.	86
4.6.3. Human and Labour Rights.	87
4.7. Vietnamese Labour Law.	88
4.8. Conclusion.	90
 <b>Chapter V: Case Study - Labour Conditions Experienced by Nike Contract Workers in Viet Nam.</b>	 <b>92</b>
5.1. Nike Incorporated.	93
5.2. Nike in Viet Nam.	94
5.3. Nike and Controversies.	95
5.4. Core Labour Standards.	97
5.4.1. Wages and Hours of Work.	97
5.4.2. Health and Safety.	99
5.4.3. Human and Labour Rights.	100
5.5. Corporate Social Responsibility.	101
5.5.1. Manufacturing Locations.	101
5.5.2. Monitoring and Transparency.	102
5.5.3. Public Relations.	102
5.5.4. Nike’s Code of Conduct.	103
5.5.5. Economic Development.	104

5.6. Nike, Labour Conditions and Development.	105
5.7. Conclusion.	110
<b>Chapter VI: Conclusion.</b>	<b>112</b>
<b>Appendix 1: Universal Declaration of Human Rights.</b>	<b>117</b>
<b>Appendix 2: International Labour Organisation Declaration on Fundamental Principles of Rights at Work.</b>	<b>125</b>
<b>Appendix 3: Nike Code of Conduct.</b>	<b>128</b>
<b>Appendix 4: Nike Timeline.</b>	<b>131</b>
<b>Bibliography</b>	<b>142</b>

## **LIST OF BOXES AND TABLES**

<b>Box 2.1: Summary of Key Factors – How and When Transnational Corporations can be Developmental.</b>	<b>29</b>
<b>Table 4.1: Viet Nam’s Human Development Index Over Time.</b>	<b>76</b>
<b>Table 4.2: Human Development Index Ranking for Selected Countries.</b>	<b>77</b>
<b>Table 4.3: Advantage of Vietnamese Garment Industry in Labour Costs.</b>	<b>82</b>
<b>Table 4.4: Rates of Competitiveness of Countries/Economies.</b>	<b>83</b>
<b>Table 4.5: Minimum Salaries by Region.</b>	<b>89</b>
<b>Box 5.1: Summary of Interview - Labour Conditions Experienced by Contract Workers in Viet Nam.</b>	<b>107</b>
<b>Box 5.2: Summary of Nike’s Contribution to Labour Conditions and Development in Viet Nam.</b>	<b>109</b>

## ABSTRACT

The role and responsibility of Transnational Corporations (TNCs) in determining labour conditions for developing country workers has been the topic of much debate, usually between corporations and social justice activists.

The low cost/sweatshop labour debate is complex as a range of TNCs and labour conditions exist, offering an array of positive and negative contributions to labour conditions and development in developing countries. Developmental TNCs offer good work options to developing country workers, while also positively contributing to the development of its host country economies. TNCs can also act as positive role models for other industries and enterprises by offering superior labour conditions to domestic enterprises. Additionally, TNCs may offer education or developmental experiences to workers and utilise fair or ethical trading practices.

In contrast, TNCs may also act in non-development ways. For example, many TNC sub-contracted factories are sweatshops, offering deplorable wages and working conditions, exploitation and human rights abuses. Moreover, some TNC factories do not offer positive spillovers to developing countries and furthermore, there are often detrimental impacts when developing nations are forcibly integrated into the global economy.

It is important to make the distinction between core labour standards (international human rights and labour law) and corporate social responsibility (CSR) (moral and ethical judgements on how corporations should behave). CSR requirements are difficult to define and are not based in law. Nonetheless, increasing public expectations and the success of non-government organisation campaigns, have meant that CSR requirements are what the public expects of TNCs.

Nike contributes to Vietnamese labour conditions and development through the creation of thousands of factory jobs and through FDI and its spillover effects. The



Ministry of Labour comments that foreign TNCs and Nike frequently offer superior labour conditions to those of domestic enterprises. Yet, there are still many concerns with health and safety, wages and hours of work and human rights abuses in Nike contract factories.

Nike argues that there are many external factors, which determine global labour conditions (for example, globalisation, free trade and neo-liberalism). Yet, TNCs have a great deal of influence on the global environment and overall, it is TNCs that determine the labour standards of developing country contract workers. Furthermore, there is significant potential for TNCs to meet core labour standards and CSR requirements.

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This thesis does not reflect the opinion of any other person and the final responsibility for the content of this thesis rests with me alone.

## ABBREVIATIONS

\$	United States dollar
ASEAN	Association of Southeast Asian Nations
BWI	Bretton Woods Institution
CEO	Chief Executive Officer
COC	Code of Conduct
CSR	Corporate social responsibility
DFI	Direct Foreign Investment
EPZ	Export Processing Zone
FLA	Fair Labor Association
FDI	Foreign Direct Investment
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
GNP	Gross National Product
HCMC	Ho Chi Minh City
HDI	Human Development Index
ILO	International Labour Organisation
IMF	International Monetary Fund
IPPF	International Planned Parenthood Federation
ITO	International Trade Organisation
MNC	Multinational corporation
MNE	Multinational enterprise
NAFTA	North American Free Trade Agreement
NCSSH	National Centre for Social Sciences and Humanities
NIEs	Newly Industrialised Economies
NGO	Non-government organisation
Nike	Nike Incorporated
OECD	Organisation for Economic Co-operation and Development
PDA	Population and Community Development Association
PPP	Purchasing Power Parity

PR	Public relations
SAP	Structural Adjustment Programme
SOE	State owned enterprise
TBIRD	Thai Business Initiative in Rural Development
TNC	Transnational corporation
TRIMs	Trade Related Investment Measures (WTO)
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNCTC	United Nations Centre on Transnational Corporations
UNDP	United Nations Development Programme
UK	United Kingdom
UNFPA	United Nations Population Fund
US	United States
WTO	World Trade Organisation

## CHAPTER I: INTRODUCTION

*“Nike, the company that pioneered the business philosophy of no-limits spending on branding, coupled with a near-total divestment of the contract workers that make its shoes in tucked-away factories...has become a prototype for the product-free brand. Inspired by the swoosh’s staggering success, many more traditionally run companies (“vertically integrated,” as the phrase goes) are busy imitating Nike’s model” (Klein 2001:197-8).*

### **1.1. Introduction.**

This dissertation explores the role of transnational corporations (TNCs) in determining labour conditions in developing countries by using a case study of TNC, Nike Incorporated (Nike), and the labour conditions provided to its contract workers in Viet Nam.

Debate about TNCs and labour conditions is complex, as there are many types of corporations and corporate behaviours, and consequently, much variation in the labour conditions experienced by employees in developing countries.

Current corporate behaviours, affecting labour conditions in developing countries include the utilisation of transformed production technologies and the outsourcing of production to developing countries to take advantage of low labour costs. The outsourcing of manufacturing has a range of impacts for labour conditions in developing countries. Positive impacts include the creation of new work options for hundreds of thousands of citizens and negative impacts often include poor labour conditions and abuses of human and labour rights.

Corporate behaviour also has a range of contributions to development in developing countries. Positive contributions include increased foreign direct investment (FDI) and

its spillover benefits such as technology, infrastructure and human resource development. Negative contributions include the forced integration of developing countries into the global economy and the displacement of local livelihoods, as a result of increased TNC competition within host country economies.

Corporate behaviour affecting labour conditions in developing countries is determined by myriad environmental factors. Internal environmental factors include corporate goals, ethics, organisational culture and corporate politicising. External environmental factors include national and international competition, government policy, international economic regimes, foreign policy agendas, international institutions and agreements and core labour standards.

The corporate social responsibility (CSR) and anti-sweatshop movements have been key in challenging TNC behaviours, with their insistence on the provision of core labour standards for workers in developing countries. In response to public controversies about labour conditions, some TNCs have formulated CSR strategies and voluntary Codes of Conduct (COCs).

In the case study of labour conditions of Nike contract workers in Viet Nam, I describe the labour conditions – wages, hours and days of work and health and safety standards – in Viet Nam's Nike contract factories, in order to make conclusions about Nike's adherence to core labour rights and CSR. Throughout the case study, I also describe how Nike contributes negatively and positively to labour conditions and development within Viet Nam.

## **1.2. Thesis Outline.**

This dissertation consists of six chapters as follows:

### **Chapter I: Introduction.**

This chapter outlines the motivation for this research and outlines both the structure of the dissertation, as well as method and constraints. This chapter also gives an introduction to development models.

### **Chapter II: Transnational Corporations, Corporate Behaviour and Development.**

This chapter discusses the variation in TNCs and their behaviours, and examines the positive and negative contributions of TNCs to labour conditions in developing countries. I also discuss the negative and positive impacts of TNC behaviours in developing countries.

### **Chapter III: The Environments in which Transnational Corporations Operate.**

This chapter examines the internal and external environmental factors, which shape and determine TNC behaviour. Within external environmental factors, I discuss core labour standards and their regulation, followed by a discussion and background of CSR.

### **Chapter IV: Case Study – Viet Nam – Socio-Economic Development and the Garment Industry.**

This chapter describes Viet Nam's economic and social development levels, garment industry and labour conditions, in order to provide a context for the following chapter, which focuses on labour conditions of Nike contract workers in Viet Nam.

## **Chapter V: Case Study - Labour Conditions Experienced by Nike Contract Workers in Viet Nam.**

This chapter examines Nike and its operations in Viet Nam. I outline the controversies with Nike and link these to core labour standards and CSR, using examples from Nike's operations in Viet Nam. This provides a detailed analysis of Nike's role in determining labour standards within Nike contract factories in Viet Nam.

## **Chapter VI: Conclusion.**

In this chapter, I summarise the conclusions made throughout the dissertation and highlight the issues and themes arising throughout the chapters.

The research method used in this thesis is primarily, a literature review in conjunction with one interview with an official from the Department of Labour, Invalids and Social Policy (Ministry of Labour) in Viet Nam. Unfortunately, I was not able to interview anyone working in Vietnamese non-government organisations (NGOs), specialising in sweatshop or Nike issues.

In chapters II and III, a literature review provides an overview of the key issues associated with TNCs, corporate behaviour, determinants of corporate behaviour, CSR and core labour standards.

In chapters IV and V, a literature review provides the foundation for the case study, providing background on Viet Nam, FDI, the garment industry and Nike's role in determining labour conditions of contract workers in Viet Nam.

Throughout the dissertation, examples and case studies are used to support the discussion of the role of TNCs in determining labour conditions in developing countries.



The literature and resources used to analyse labour conditions in Viet Nam, come predominately from the United Nations Development Programme (UNDP), Phan Thi Thanh, Director, Ministry of Labour, Affairs, General Statistics Office (GSO) and the National Centre for Social Sciences and Humanities (NCSSH) in Viet Nam.

The majority of information on Nike and the labour conditions in its Vietnamese contract factories, comes via research published on the Internet, by Nike and anti-sweatshop organisations, such as Vietnam Labor Watch, Oxfam Community Aid Abroad and the Clean Clothes Campaign.

I now provide a background to development, in order to provide a context for discussion in the following chapters on labour rights and development.

### **1.3. Development Models.**

The rationale for development assistance or aid to developing countries lies in a mixture of social responsibility, ethics and economic and geo-political considerations. Though changing over time, the western model of aid and development aims to create capability and economic self-reliance, eliminate poverty and meet the basic needs - decent livelihoods, health, education, housing, food and water - of the earth's population (Korten 1995:4,171 and McMichael 2000:272).

However, development policy and practice have evolved over time, through the influence of international economic and foreign policy agendas.<sup>1</sup> Current development models now reflect the enforcement of neo-liberal economic theory, globalisation, free trade<sup>2</sup> and corporate involvement in public policy. These economic paradigms are seen as the answer to underdevelopment, poverty, income inequity and economic problems,

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<sup>1</sup> The rationale for development changed in the 1980s as geopolitics in terms of super-power rivalry lost its prevalence as the most compelling reason for the industrialised world to assist third world countries. The developed world progressively retreated from material diplomacy with a corresponding growth in aid fatigue and protectionism in the north, directed against the south (Roy 1999:2,12).

<sup>2</sup> Neo-liberalism, globalisation and free trade are discussed in Chapter III.

and are now understood by many, as development (McMichael 2000:277 and Wallach and Sforza 2000:63).

Over four billion people, three quarters of all humanity, live in third world countries. The common feature of the developing world lies in its shared history of colonial bondage. Historically, the developed world has exploited the third world's natural and human resources for its benefit, while neglecting the development of its colonial citizens (Korton 1995:252 and Roy 1999:6-7). Thus, the third world has always existed for the comfort of the first world and western consumers have profited from this global division of labour (Klein 2001:xviii).

The third world embraced development to secure their independence from colonialism and to meet rising expectations of material betterment. Yet, the third world has continued to underdevelop and exists at the periphery of developed countries. In many countries, the political costs of development have led to the loss of freedom, repression and civil war. Today, most of the hunger related deaths occur in the third world, avoidable when the world produces enough food to feed everyone. Furthermore, developing countries have largely been bypassed by modern industrial and technological advances. Instead, these countries share poverty, low productivity, population growth, unemployment, dependence and international vulnerability (Roy 1999:7-8).

Economic growth can not by itself end poverty and the assumption that wealth will 'trickle down' to the poor has not been accurate, especially amongst the poorest countries and people. Instead, ending extreme poverty requires commitments and actions to poverty eradication, not economic growth (United Nations Population Fund (UNFPA) 2002:14). Most significantly, in the name of economic growth and neo-liberalism, major international economic agencies, the World Bank and the International Monetary Fund (IMF) instituted structural adjustment programmes (SAPs) - harsh austerity measures on third world countries. The social costs of these economic policies have been severe, weakening the social fabric and creating

dependence on financial aid. Thus, economic growth has not succeeded in growing the world out of poverty or increasing third world living conditions (Korten 1995).

Economic growth is not a realistic indicator for development progress, as only a small percentage ever receive its benefits, while the majority continue to suffer decreasing standards of living. In fact, despite 50 years of de-colonisation and attempted development, the divisions between the first and third worlds are further widening, as growth and marginalisation occur simultaneously for different populations (Korten 1995:6-25 and Roy 1999:100-102). Today, 89 states are worse off now than they were 10 years ago and the income gap between the world's rich and poor has accelerated and is now twice as great as 30 years ago (McMichael 2000:214, Ross 1997:9 and Roy 1999:6,100). Current development models thus do not reflect the real interests of the poor and much of past development has been a failure for developing countries (Roy 1999:13).

Furthermore, serious questioning is required of the lifestyles of the rich, being imposed as a paradigm of development and progress (Roy 1999:102). Economic development creates expectations of increased consumption and whole industries exist to market insatiable desires and unsustainable consumption (for example, marketing AVON cosmetics in the Amazon). Foreign aid becomes anti-developmental when used to foster dependence on an unsustainable consumer lifestyle (Korten 1995:150-171).

In this chapter, I have provided an introduction to the dissertation and to development models. In Chapter II, I discuss current TNC behaviours affecting labour conditions in developing countries.

## CHAPTER II: TRANSNATIONAL CORPORATIONS, CORPORATE BEHAVIOUR AND DEVELOPMENT

*“For some young people, work in the factories does not provide the financial opportunities that they have hoped to find. Many participants report having earned between US\$ 7 and US\$ 30 in the previous month,” (CARE International in Cambodia 1999:25).*

Debate about TNCs<sup>3</sup> is complex as they exist in a wide range of forms, with variations in size, purpose and behaviour, based on their countries of origin, regional variations and individual management styles. Consequently, there is a continuum of corporate behaviours within developing countries, with some TNCs offering fair wages and conditions, while others provide sweatshop factories. Much of the anti-corporate and sweatshop activism focuses on TNCs offering sweatshop conditions to employees in developing countries. For example, high profile TNC, Nike, receives a great deal of negative attention focused on the labour conditions of its sub-contracted workers in regions such as Asia.

With the vast technological advancements in the last decades, it would be easy to assume that today's citizens and workers have far superior living and working conditions than those of last century, with corresponding reductions in global poverty. However, TNCs today, offer a range of improved through to abysmal working conditions, with corresponding positive and negative impacts for workers and development within developing countries.

In this chapter, I give an overview of these complex labour issues. I discuss the range of TNCs that exist, variations in their behaviour and in the corresponding positive and negative impacts on labour conditions in developing countries - with a special focus on

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<sup>3</sup> For the purposes of this dissertation, I use the terms international/foreign company, corporation, TNC, MNC (multinational corporation) and MNE (multinational enterprise) interchangeably and assume their shared meaning as TNC.

contract workers. I then outline how corporate behaviour impacts positively and negatively within developing countries and to their development. In addition, by linking corporate behaviour with current models of development, I analyse the key variables within TNC behaviour that do or do not contribute to development.

The subjects of TNCs, corporate behaviour and development all contain controversy and complexities. I will endeavour to acknowledge these as I progress through this chapter. As there is a large body of research on TNCs, this dissertation focuses solely on US TNCs, with biases made toward US literature. I will also predominantly focus on the TNC behaviour influencing the labour conditions<sup>4</sup> of employees and sub-contracted or Export Processing Zone<sup>5</sup> (EPZ) workers in developing countries.

## **2.1. Business Enterprises and Transnational Corporations.**

Many types of business enterprises operate in developing countries. These vary within countries and regions, in types of ownership - whether foreign, state or locally owned, in the home country of the corporation, its size – from tens of thousands of workers to singular home workers, and in types of business activity (for example, the textile, garment or food industries). Business enterprises also operate distinctively based on the philosophy of its owners and management style (for example, the philosophy of Nike compared to that of Toyota) (Suzuki and Dressel 2002).

TNCs<sup>6</sup> are defined as “large corporations which have a policy headquarters in one country (the home country) and operating in foreign jurisdictions (the host country) through wholly or partly owned subsidiaries, agencies and other forms of business representatives” (Addo 1999:3). The United Nations Conference on Trade and Development (UNCTAD) (2002) further defines TNCs as “incorporated or

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<sup>4</sup> For the purposes of this dissertation, I define the terms – labour and working conditions - with the same meaning – standards of employment and labour and human rights, such as health and safety, decent wages and hours of work and the ability to unionise and bargain collectively.

<sup>5</sup> Export Processing Zones (EPZs) are “specialised zones established by states to attract foreign investment in export production with concessions such as cheap unorganised labour, infrastructural subsidies, and tax breaks” (McMichael 1996:298).

unincorporated enterprises, comprising parent enterprises and their foreign affiliates. A parent enterprise is defined as an enterprise that controls assets of other entities in countries other than its home country, usually by owning a certain equity capital stake. A foreign affiliate is an incorporated or unincorporated enterprise in which an investor, who is resident in another economy, owns a stake that permits a lasting interest in the management of that enterprise” (<http://www.unctad.org/en>, 26 April 2003).

UNCTAD (2002) states that in 2002, there were 30,250 parent corporations and 100,825 foreign affiliates located in developed economies. By contrast, there were 13,492 parent corporations and 494,900 foreign affiliates located in developing economies (UNCTAD 2002:270). UNCTAD (2002) also states that twenty-nine of the world’s 100 largest economic entities are TNCs<sup>7</sup> (<http://unctad.org/en>, 26 April 2003). Moreover, two thirds of world trade and most of the world’s financial transactions, biotechnology and industry capability (including oil and coal) are controlled by TNCs (McMichael 2000:95). In addition, the world’s largest 500 industrial corporations employ .05 to one percent of the world’s population and control 25 percent of the world’s economic output (Korten 1995:221).

## **2.2. Current Transnational Corporation Behaviours - Transformed Corporate Structures and Processes.**

The term corporate behaviour spans the many actions of corporations, such as those toward the environment, marketing, production and human resources. Alongside the evolution of the corporation, corporate behaviour - particularly in the last three decades - has also evolved significantly. Key current TNC behaviours affecting labour conditions in developing countries include transformed corporate structures and

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<sup>6</sup> Madeley (1999) also defines TNCs “an enterprise with activities in two or more countries with an ability to influence the other” (Madeley 1999:1).

<sup>7</sup> UNCTAD (2003) states that the size of large TNCs is sometimes compared to that of national economies as a measure of corporate influence in the world economy. The value of activities of the 100 largest TNCs has grown faster than those of countries in recent years, accounting for 4.3 per cent of world gross domestic product (GDP) in 2000, compared with 3.5 per cent in 1990. This suggests that the relative importance of these companies in the global economy is on the rise. On the other hand, for the top 50 TNCs, the share of activities in world GDP has declined somewhat over the past decade. In the combined top 100 list of companies and countries, 24 TNCs appeared in 1990, five less than in 2000 (<http://unctad.org/en>, 26 April 2003).

processes<sup>8</sup> such as – increased corporate politicising, the utilisation of innovations in technology and production and the use of low cost labour in developing countries through sub-contracting and EPZs. These are now discussed.

### **2.2.1. Corporate Politicising.**

The increasing politicising of corporations has dramatic implications for labour conditions in developing countries. Corporate politicking has always existed but not to its current extent. Before the 1970s, corporations used old-fashioned corporate lobbying organisations, such as chambers of commerce to influence governments. Today, corporations compete avidly and directly in politics supporting candidates, donating to political campaigns and lobbying on specific legislation, often through business roundtables<sup>9</sup> (Korten 1995:142-5). TNCs often have direct access to the highest levels of formal political and administrative power with considerable success (Starr 2000:8). Fund-raising is necessary to support the high costs of politics and television campaigns and consequently, politicians become acquainted with the needs of their funders (Korten 1995:147).

In addition, business group alliances, foundations and corporate front groups have formed to influence the political and legal systems with their ideological visions. These organisations often work with public relations (PR) firms to manipulate news, public opinion and policy.<sup>10</sup> Corporations have gained increasing influence through many mediums such as television and politics and are now moving aggressively into schools (Korten 1995:142-154).

As corporations have created more profit, they have morphed into super-corporations with wider circles of power and influence. The biggest TNCs have annual sales that

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<sup>8</sup> A further behaviour trend, corporate responses to the social responsibility lobby, including Codes of Conduct, is discussed in Chapter III.

<sup>9</sup> Business roundtables are national associations of Chief Executive Officers (CEOs) of large TNCs, where corporations seek to endorse their economic and social agendas (Korten 1995:142-5).

<sup>10</sup> Corporate front groups in the US regularly report in the press as citizen advocates. Almost 40 per cent of news content in the US originates from PR press releases and suggestions. By 1980, more than 80 per cent of these groups had head offices in Washington, DC (Korten 1995:148).

exceed the output of most developing countries. The combined sales of the world's largest 350 TNCs total almost one third of combined gross national products (GNPs) of all industrialised countries and exceed GNPs of all third world countries (Madeley 1999:2 and McMichael 2000:53,96). Consequently, corporations have a great deal of influence in the world economy, exceeding the power and size of most governments (Korten 1995:221 and McMichael 2000:53).

Many corporations fight for unlimited corporate freedoms, rights and actions, meaning that local people and governments do not have sole control of economic and local interests. Corporations also advocate that political boundaries of nation states are too restrictive to define "the scope and activities of modern business" (Korten 1995:123). In addition, corporations have attacked governments, calling for cuts to taxes and social spending, government downsizing and increased individual responsibility (Korten 1995:116-123). Corporations are now emerging as the dominant governance<sup>11</sup> institutions and this type of corporate power threatens democracy, as no one votes for this global management system (Madeley 1999:20, McMichael 2000:53,218 and Nader 1993:14).

In addition, TNCs have a significant influence on their wider international and economic environments and have lobbied to create these to their advantage. TNCs have gained control of political and international agendas and rights to define public policy goals (Heerings and Zeldenrust 1995:5 and Korten 1995:100). Domestic policy can now be dictated by external private corporate interests acting upon the principles of liberalisation and market access (Dunkley 2000:227 and Heerings and Zeldenrust 1995:5). TNCs have had much input in to and received major benefits from international institutions and agreements such as the World Trade Organisation (WTO) and General Agreement on Trade and Tariffs (GATT). The world's largest corporations utilise GATT and WTO to consolidate power and place themselves beyond public accountability rules (Dunkley 2000:45,228 and Korten 1995:160-177).



Consequently, labour conditions in the third world are significantly influenced by corporations, whose charters are to pursue profit maximisation, not the collective aspirations of society. This type of corporate global governance has significant implications for the rights of workers, as corporations dictate the terms of both developing country manufacturing and labour conditions (Korten 1995:67,221 and Wallach and Sforza 2000:1).

### **2.2.2. Technological Innovations.**

The late 1980s and early 1990s were breakthrough years in the evolution of technology as an historic computer and telecommunications revolution took place, continuing to the present day. Profound developments in information and communications technology include computers, worldwide networking, email and the Internet, and video surveillance and conferencing (McMichael 2000:291).

Utilising these technologies has permitted rapid innovations in the structure and organisation of industrialisation (production, manufacturing and operations) and maximisation of productivity and profit. Through the creation of instant international management and communication, it became possible to control plants, production and staff throughout the world from central computers in other countries (Kaplinsky 1991).

Most significantly, technology has allowed corporations to restructure dramatically in size and location, splitting the sites of headquarters and manufacturing functions. Headquarters, strategic management and marketing divisions of major TNCs are now frequently based in developed countries such as France, Germany, Japan, United Kingdom (UK) and US. Meanwhile, TNCs' production functions are often relocated to developing countries, utilising the outsourcing of production and EPZs. Corporations can thus expand beyond national boundaries in cheaper areas of the world to maximise their profits (Kaplinsky 1991, Korten 1995:216-7 and McMichael 2000:85).

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<sup>11</sup> Governance is defined as "the manner in which power is exercised in the management of a country's economic and social resources for development" (Richter 2001:29).

### **2.2.3. Innovations in Production.**

Technological innovation has created a number of choices in production methods and manufacturing available to corporate management.

The Japanese Toyota or horizontal model of production emphasises product design, flexibility and cost reduction as well as responsiveness to fashion. Toyotaism is also characterised by decentralised technology creating local development, lean inventories,<sup>12</sup> just in time production, and horizontal intra- and inter-firm networks. These interactive webs or joint ventures enable effective access to technology, markets and finance, with all firms working collaboratively and continually to adjust to changing world market demand (Chase and Aquilano 1995:83-93, McMichael 2000:90-92 and Quirk 1999:37).

Conversely, the Fordist or vertical model of production uses hierarchies to control, centralise and localise information and technology in a parent country, while transferring standard technology processes to produce standardised components in host sites. Fordism emphasises efficiency at all costs and labour costs are significantly reduced as a global commodity chain<sup>13</sup> is produced (McMichael 2000:90).

A combination of vertical and horizontal systems now take place in the constantly changing corporate world. Differing production strategies can be used in different parts of the world to produce any product at any time. Production is fine-tuned and reorganised to survive markets and technologies in constant flux (Amin 1994:15 and McMichael 2000:90-110).

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<sup>12</sup> Flexible or lean inventories/production is characterised by the casualisation of labour, self-employment, sub-contracting and piece rate work, created by the just in time supply patterns (Kaplinsky 1991 and McMichael 2000:197-9).

<sup>13</sup> A global commodity chain is "a series of linkages between sites involved in producing part of an overall product for sale on the market" (McMichael 1996:295). The global (or world) factory is a term indicating that production takes place through chains of production sites, differentiated by function. Advances in technology have enabled firms to co-ordinate production tasks across sites in several countries, allowing the rapid circulation of design blueprints instructing changes in production. In fashion redesigning, production methods must be instantly and easily reorganised (McMichael 2000:85-88).

<sup>9</sup> Global sourcing involves using all sources internationally to enable the cheapest production costs (McMichael 2000:92).

Uncertainty in the market because of growth in short-term goods, differentiation of consumer markets and quickly changing design and fashion preferences, created problems for the 1980s system of mass production. Firms required greater flexibility to ensure the production chain could respond to these changes. Flexible specialisation (or lean production) utilises versatile technology and workforces and simultaneous engineering to replace the sequencing of mass production. In addition, flexible specialisation allows quicker changes in design and production for volatile markets, production of similar products with multiple variations to suit individual preferences (for example, sneakers) and complete changes of product orders (for example, The Gap changes their production each six weeks) (Amin 1994:2, McMichael 2000: xxxvi,106-7 and Schonberger 1996:166).

TNCs created global sourcing<sup>14</sup> as a strategy to improve market position and secure predictable supplies of inputs. As this specialisation spread across the first world in the 1960s, world or global products were made from a number of different locations (for example, the global car). In the 1970s, fifty per cent of all manufactured exports from the US were produced in TNCs based in Brazil, Mexico, Singapore and Hong Kong. Furthermore, global sourcing involves the lowest cost products regardless of how they are made (for example, utilising child or sweatshop labour) (Chase and Aquilano 1995:715-719 and McMichael 2000:92-93,106).

#### **2.2.4. Sub-contracting and Export Processing Zones.**

The key to the new flexible corporation is the use of sub-contractors who can be brought in line or let go as the market changes with a minimum of direct investment. Sub-contracting or outsourcing is the process of contracting out key production functions to developing countries to take advantage of lower labour costs and thus, overall reduced production costs. Within the sub-contracting arrangement, goods are made to the specifics of the TNC and sold under the corporation's own brand (McMichael 2000:xxxvi and Madeley 1999:103).

Lavish corporate spending in the 1990s on marketing, mergers and brand extensions has been matched today by a clear resistance to investment in production facilities and labour. Many companies now bypass production in and owning their own factories completely and instead “source” their products. Existing factories are closed, relocated or contracted out, mostly to offshore manufacturing locations. In previous decades, corporate restructuring was an unfortunate necessity but now, such reorganising is seen as a savvy and routine shift in corporate strategy (Klein 2001:196-200).

Corporations are free to contract out production to virtually any country and have established subsidiaries or extensive sub-contracting contracts, particularly within labour intensive and consumer goods industries (McMichael 2000:99). Production is contracted out to the lowest bidder and this increasingly means investing in countries with steadily reducing levels of labour costs (Madeley 1999:2-3,103). Corporations then do not need to take responsibility for employees’ labour conditions (Korten 1995:216-7). Yet, “contractors” throughout the world perform the same tasks as the old-style employees, without their same benefits and conditions (Klein 2001:201).

This decisive shift in corporate priorities to elevate the status of marketing and management and devalue the production process has left yesterday’s producers – factory workers and craftspeople - in precarious and weak positions (Klein 2001:196-7). For Philip Knight, Chief Executive Officer (CEO) of Nike, production is not the building block of his branded empire, but instead, a menial tedious chore. Knight states “there is no value in making things anymore. The value is added by careful research, by innovation and by markets” (in Klein 2001:197). Nike does not own any factories. Instead Nike has 8,000 management, design, sales and promotion staff and hundreds of thousands of contract workers, hired by independent sub-contractors (Klein 2001:198, Korten 1995:11 and Madeley 1999:106).

Corporations are also increasingly utilising EPZs, as countries such as US, UK and Japan seek to further reduce production costs and increase their competitiveness. By

the late 1990s, more than 200 EPZs existed, employing about four million workers. EPZs are usually exempt from labour regulations and domestic taxes through agreements with host country governments. EPZs serve firms wanting low wage costs and third world governments seeking capital investment and foreign currency. With these kinds of arrangements, it has become incredibly cheap for corporations to operate in EPZs (McMichael 2000:88-94). The potential profits from relocating are substantial. For example, with savings of \$17,000 per employee per annum to relocate 1,000 jobs from the US to Mexico, a potential increase of \$17 million in annual profits is created (Korten 1995:214). Numbers of TNCs are increasing in developing countries, which now receive half the world's direct foreign investment (DFI) flows (Dunkley 2000:162).

### **2.3. Sweatshop/Low-Cost Labour and its Impacts on Workers.**

TNCs are attracted to the low wages and operating costs in developing countries, thereby, cutting their overall costs and creating large profit margins. Further incentives for corporations include tax-free holdings and land, unenforced workplace standards and workers with no right to organise (Korten 1995:129-130, Madeley 1999:2 and Nader 1993:7).

Moreover, the United Nations (UN) reports that even when countries have low wages, labour costs are receiving a shrinking allocation of budgets, lower today than in the 1970s and 1980s (UNCTAD 1997 in Klein 2001:197). In addition, when TNCs do meet the legal minimum wage in a country, there is much evidence that TNCs are not paying what labour groups agree are sustainable/living wages<sup>15</sup> for contract workers (Madeley 1999:103). Labour production costs are usually 25 per cent of a product's end price and within this, a company can meet its employment needs. However, in a low cost location such as Mexico, wages paid are one eighth of those in the US. To do

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<sup>15</sup> The Center for Reflection, Education and Action, Inc (2000) defines sustainable living wages as where the "wage level meets basic needs including food, clothing, housing, energy, transportation, health care and education, with the ability to participate in cultural required activities (including births and related celebrations, weddings, funerals and related activities) (<http://www.crea-inc.org>, 1 November 2002).

In addition, contract wages are often steadily reducing in real terms due to currency fluctuations and inflation in host countries. For example, "Nike and its Pou Chen partner have saved \$16 million in labor costs since the crash

this, the Mexican government denies workers' rights to join unions and there is loose enforcement of safety and environmental regulations (Korten 1995:128). Since 1994, The North American Free Trade Agreement (NAFTA)<sup>16</sup> enabled these types of labour practices and maquila growth. NAFTA provided tax-free incentives for maquila owners, so that US companies could ship raw materials to Mexico and then import finished parts or assembled products, tax free (Kelsey 1999:162-163 and Landau 2002).

Such poor labour conditions are often labelled sweatshops. The US General Accounting Offices defines a sweatshop<sup>17</sup> as "a business that regularly violates wage, child labour, health and/or safety laws" (Boje 2001:2). Dunkley (2000) further defines sweatshops as "poor pay and labour conditions with an increasing degree of exploitation" (Dunkley 2000:16). Investigators for US labour and human rights groups estimate that Asia and South America have thousands of sweatshops, making products for US and European companies, which do everything from force employees to work 16 hour days to cheat them out of their already low wages (Boje 2002:2-3).

The controversy surrounding TNC sweatshops lies in developed world corporations increasingly contracting out manufacturing to developing country contractors, known to abuse human rights and exploit employees. Many developed world citizens say that ethically, TNCs should also export developed world corporate responsibility and labour standards (Manning 1998:133, <http://www.caa.org.au/campaigns/nike/>, 28 April 2003 and <http://www.cleanclothes.org>, 28 April 2003).

Low cost or sweatshop labour has many impacts for its employees. The following is a summary of key negative and positive impacts.

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of the Rupiah two years ago. Nikomas workers' real wages have been eroded by 30% since the Asian financial crisis hit" (<http://www.maquilasolidarity.org/campaigns/index.htm>, 20 April 2003).

<sup>16</sup> Governments came under pressure to ease restrictions on the mobility of capital and to open their countries to foreign investment. The rise of free trade agreements such as NAFTA, gave a new impetus to mergers, take-overs and alliances and provided privileged access to markets. The free market agenda helped to fashion a more congenial environment for TNCs (Kelsey 1999:162-163). Since NAFTA, 2,000 factories have moved from the US to operate in the border regions of Mexico (Roddick 2000:10).

<sup>17</sup> The word, sweatshop, goes back to the late 1800s and refers to a sub-contracting system called 'sweating'. The idea is to sweat as much profit as possible out of each employee (Boje 2002:2). Kelly (2002) further defines a sweatshop as "a factory with low pay, long hours and unhealthy conditions" (Kelly 2002).

### **2.3.1. Negative Impacts.**

Many contract workers in developing countries experience sweatshop work conditions. Documented negative impacts include extensive human rights and labour abuses such as verbal and physical abuse, 12 hour or more work days, compulsory overtime (sometimes unpaid), 7 day work weeks, suppression of union activities, locked factory doors forcing workers to stay at work, lack of basic health and safety standards and exploitation of women and children (Dunkley 2000:163). Women are often treated worse than men are as they are supposedly more docile and always cheaper. Furthermore, approximately 250 million children under the age of 14 work in developing countries. Of these children, 46 million work for American firms in 19 developing countries. Sub-contracting has created a pattern of abuse and sweatshop work conditions with similarities to early European pre-industrial sweatshops, prior to labour protection (Madeley 1999:103, McMichael 2000:94-103 and Ross 1997:13). This can be seen as a modern version of slavery in that many workers face ill health and even death because of insufficient or severe work conditions (for example, contract workers have died from heat exhaustion) (Korten 1995:231).

The ability of corporations to relocate production at their will weakens the bargaining power of workers and contractors as competitive pressure is placed on contractors to absorb costs (Korten 1995:126). Contract workers usually carry the brunt of TNC and contractor negotiations when a contractor's lowest price is dependent upon reducing labour conditions and wages (Klein 2001:198). Corporations increase their power in negotiation with threats to relocate to countries where they can pay still lower wages. Countries are then bidding against each other in competition for contracts and this has caused a world wide downward spiral in wages and conditions for contract workers. It is difficult for communities to benefit from this type of competition, as there is always some place in the world a little worse off. For example, TNC production has moved

from Singapore to Korea and now to China<sup>18</sup> which has the lowest human rights and wages records of all (Madeley 1999:2-3,103).

Regardless of whether foreign TNCs offer perhaps the best of marginal local conditions, there is no doubt that TNCs relocate to developing countries in order to utilise lax labour and human rights laws and regulation (McMichael 2000:100). Contract work is often associated with abysmal conditions and citizens often have little choice between bad jobs, unemployment and the informal sector. For example, maquiladors in Mexico do not actually benefit workers, who are forced to live in polluted areas and accept low wages and dangerous work (Nader 1993:7). Competition exists even for bad jobs as hundreds of millions of people worldwide are desperate for any kind of work. Additionally, the mere presence of such a labour pool depresses wages and labour conditions further (Klein 2001:228, Korten 1995:231 and McMichael 2000:192).

The Uruguay Round has removed the power from national governments to protect human and labour rights, as these are labelled as trade barriers (Nader 1993:8). Businesses used to share a sense of national and community interest but in recent years, corporations have detached themselves from responsibility for the interests and rights of contract workers and instead, these responsibilities are transferred to contractors (Klein 2001:198 and Korten 1995:113,229). Thus, TNCs have undone health, safety and environmental protection won by citizen movements across the globe in recent decades and Governments' achievements in labour and human rights have been transformed to please corporations (McMichael 2000:281 and Nader 1993:1). Ross (1997) argues that such contract work conditions are a disaster for human rights (Ross 1997:24).

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<sup>18</sup> According to the Washington Post (20 June 2002), over the last two years "more than 500 foreign-owned assembly-line factories in Mexico moved to China. Company accountants have concluded that the wage differential



### 2.3.2. Positive Impacts.

Still, it is difficult to make any generalisations about TNC factories as many types of working conditions exist, in different countries and regions of the world. TNCs vary in their management styles and not all sub-contractor factories are sweatshops. There are many examples of factories providing significant benefits to their employees. For example, in Thailand, rural poverty has resulted in high levels of urbanisation and widening disparities between the urban rich and rural poor. The Thai Business Initiative in Rural Development (TBIRD) is an innovative programme that offers businesses an opportunity to demonstrate social responsibility and participate in rural development, particularly in giving villagers a chance to develop basic business skills. Small to medium manufacturing operations, typically located in Bangkok, have been successfully relocated to or established in rural settings. This directly benefits Thailand's rural poor and generates local financial support for community development<sup>19</sup> (Population and Community Development Association (PDA) 2000:4-6).

A further example comes from the garment industry in Phnom Penh, Cambodia. Here, Cambodian reproductive health non-government organisations (NGOs) and CARE International in Cambodia have been working in partnership with garment factory management, to educate workers on reproductive health and HIV/AIDS. In Phnom Penh, I visited a contract factory producing for the GAP - one of many TNC sub-contractor factories involved in this initiative - where management enthusiastically support reproductive health education and provide free health care to workers (CARE 1999). The International Planned Parenthood Federation (IPPF) states that in Cambodia, "the rate of HIV in pregnant women is about 2.6 %; one out of every 10 university students is infected; one out of every 4 soldiers is infected; and between 40 and 45 % of prostitutes are thought to be infected" (<http://ippfnet.ippf.org/>, 30 April 2003). Undeniably, in a country with such a high incidence of HIV/AIDS, reproductive

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between the two third world countries more than covers the increased costs of shipping and the inconveniences of distance. Chinese workers only make a quarter of Mexican wages (Landau 2002).

<sup>19</sup> For example, Bata Shoes of Thailand has been involved in TBIRD. Its factories have provided employment in rural areas, stemming the flow of migrants from Northeast Thailand to the big cities. As villagers have secure

health education and health care are extremely beneficial. TNC, Nike, also aims to expand its worker education program, making free high school equivalency courses available to all workers in Nike footwear factories (<http://www.globalexchange.org/>, 4 May 2003).

Many see TNCs operating offshore as creating credible employment alternatives for developing country citizens and it follows that it is better to have a low paying job, rather than no job. In countries with high unemployment and poverty levels, with the majority of workers employed in the informal sector, TNC contract work provides stable, comparably safe and known work options (PDA 2000).

It is also argued that the branded<sup>20</sup> TNCs factories offer better work conditions than the informal sector, local firms and factories or TNC home work.<sup>21</sup> There is often a striking difference between the conditions of factory workers and those who work from home. For instance, in a garment factory in the Philippines, home workers were not entitled to holiday or sick leave, while regular workers received these benefits. Home workers may also be disadvantaged in other ways such as not receiving a regular wage but instead, a piece rate paid per finished piece of clothing. As a result, their hourly earnings may be lower than those working in factories (Frynas 2000:19). In comparison, most of the evidence suggests that foreign export TNC employees' earnings are generally higher, employment no less stable and social benefits and unionisation at least comparable<sup>22</sup> to domestic firms (Manning 1998:134).

Well known TNCs such as Nike, have received significant publicity over sweatshop labour conditions. Yet, some TNCs could be said to be unfairly harassed over labour

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incomes, living standards of rural poor continue to improve. Now, co-operatives under TBIRD are regular sub-contractors for companies such as Nike (PDA 2000:21).

<sup>20</sup> Klein (2001) describes branding as the significant value of product marketing and corporate image over the value of the product (Klein 2001:15-16).

<sup>21</sup> There is relatively little evidence of the working conditions of home workers as external observers usually visit factories as opposed to home workers. Therefore, any general conclusions on the working conditions of home workers are avoided (Frynas 2000:19).

<sup>22</sup> Wages earned in the Nike and Reebok sub-contracting firms from Korea, operating in Thailand and Indonesia, are extremely low by standards in the developed world. They are not low however, when compared with what Thais and Indonesians earn in small workshops, producing for the domestic market or as agricultural labourers (Manning 1998:134).

conditions, when their factories offer labour conditions that are fair in the local or developing country context. For example, in Phnom Penh in 2002, the US ambassador to Cambodia said, “we all have witnessed steady progress toward better working conditions and improvement of workers’ rights in Cambodia’s garment industry... conditions in the factories are acceptable, especially when compared to other developing countries in the region” (<http://www.ilo.org/public>, 29 July 2002).

Companies such as Nike often receive publicity, simply because they are well known and expected to act as a role model in international labour campaigns. The Global Exchange Nike Campaign explains that Nike is targeted because Nike can afford the cost of improvements. In addition, “Nike is also the biggest shoe company in the world and puts itself forth as industry leader....by targeting the industry leader, we hoped to make changes throughout the whole industry” (<http://www.globalexchange.org/economy/corporations/nike/faq.html>, 13 December 2002).

Furthermore, as a global phenomenon takes place with increasing numbers of NGOs and social justice campaigns, it appears that universally, we have increasing expectations about the types of corporate behaviours we find acceptable (Boli and Thomas 1999). The public seeks constantly higher labour conditions and living standards for all people, and over time, people’s expectations of CSR have grown more complex and demanding. Globalisation has also raised the commonality of expectations and best societal practices of corporations (Wilson 2000:4,27).

#### **2.4. Impacts of Transnational Corporation Behaviours on Developing Countries.**

The impacts of TNC behaviour on developing countries and their citizens are diverse. The following summary outlines key negative and positive impacts of TNC behaviours in developing countries.

#### **2.4.1. Negative Impacts.**

Current corporate practices have contributed to a new international division or bifurcation of labour,<sup>23</sup> where regional divisions of labour patterns and a production hierarchy exist. Global labour is thus polarised into a core of first world and skilled labour - relatively stable and well compensated, and a periphery of casualised third world labour, specialised in production and manufacturing - who are low paid with few or no benefits. In this stratified world, lowly paid third world workers exist to serve the consumption patterns of the developed world. Moreover, the underclass of global citizens is stepping further from the promised rewards of globalisation, economic growth and development (Korten 1995:217 and McMichael 2000:98,190-1,301). This issue is becoming increasingly complex as high income disparities exist within the developed<sup>24</sup> as well as the developing world. For instance, according to the United Nations Development Programme's (UNDP) human development indicators (2002), 13.6 per cent of the US population live under the income poverty line of \$11 per day (UNDP 2002:160).

Furthermore, cheap labour attracts investment and as corporations increasingly invest in developing countries, traditional markets for local goods are lost to cheaper imported goods from larger commercial operations (McMichael 2000:192). Aggressive corporate marketing has further trans-nationalised western consumption patterns (for example, in fast food) resulting in the Cocacolisation and McDonaldisation of the globe. Within developing countries, the contexts in which people eat, work and consume are being altered by first world corporate marketing (Roy 1999:100). This in turn has resulted in decreasing demand for local products and services. Combined with the impacts of free trade and globalisation, corporations have succeeded in displacing locally owned businesses and livelihoods and increased their control over developing country economies (Korten 1995:98, McMichael 2000:192 and Nader 1993:1). In their quest for profit, these corporate behaviours leave a trail of economic devastation as

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<sup>23</sup> Bifurcation of labour is "the specialisation in producing commodities for the world market that divides regions into zones of industrial or agricultural production or high- or low-skilled labour" (McMichael 1996:301).

livelihoods and people are displaced, creating hardship and increasing poverty for millions of people in the developing world (Madeley 1999:vii-viii and Starr 2000:ix).

Corporations have also contributed to the forced integration of the south into an international economy full of extreme inequalities. Revolutionary technologies have brought to the poor, images of how the rich in the north live and increasing and unrealistic expectations for western consumption patterns are created. Such visible disparities and consumption marketed before the poor are not a foundation for peace and security (Griesgaber and Gunter 1997:25, Korton 1995:250-5 and Roy 1999:100).<sup>25</sup> The effects of these inequalities are particularly difficult on those who face insecure futures – youth, minorities and women. Meanwhile, third world governments are increasingly losing capacity to maintain civil order (Korton 1995:253-5).

#### **2.4.2. Positive Impacts.**

Many TNCs have contributed to economic growth in developing countries. For example, US investors led the way in to Mexico and almost 4,000 - mostly foreign-owned - export production plants exist on the border towns and interior. Maquilas now account for about half of Mexico's almost \$150 billion annual exports (Landau 2002). In addition, the experiences of the miracle Northeast Asian economies – South Korea, Taiwan, Singapore and Hong Kong – also indicate that TNCs contributed to positive change in their economies, through export expansion in the garment and footwear industries and the electronics sector (Rhee, Ross-Larson and Purcell 1984 in Manning 1998:136).

Growth for the North East Asian Tiger economies appears to have occurred through the rapid shift of labour into manufacturing, away from agriculture and the informal sectors. This occurred initially in the countries, which pursued export oriented industries most intensively. Real wages rose slowly initially and then accelerated and

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<sup>24</sup> Sweatshops are not just a problem in the developing world. The US General Accounting Office has estimated that there are over 7,000 sweatshops in US cities (Boje 2001:3).

<sup>25</sup> These types of consumption patterns are not sustainable in the north and will not be sustainable in the south. Developed world consumption patterns are not sustainable models of development (Meadows, Meadows and Randers 1992).

in all export-oriented countries in the region, the incidence of poverty declined and living standards improved substantially (Manning 1998:139). UNDP (2002) now ranks Singapore and Hong Kong as high-income economies (GNP per capita of \$9,266 or more in 2000) and Hong Kong is ranked 23<sup>rd</sup> and Singapore 25<sup>th</sup> in human development indicators (UNDP 2002:270-279).

Sub-contracting appears to have acted as a training school for these countries, enabling local firms to overcome entry barriers and assimilate manufacturing and design technology. The needs of export customers drove the pace of learning and evoked technological assimilation, innovation and adaptation. During the 1980s, the newly industrialising economies (NIEs) became formidable competitors, as electronics became the largest, fastest growing, export sector in East Asia, contributing to industrial output, employment and technological development (Hobday 1995:1171).

Most important, is the nature of interactions between foreign and local firms. The potential for spillovers or positive linkages in learning and competence is greater if a MNC actively engages with and competes with local firms.<sup>26</sup> Spillover effects include the impacts of purchasing raw materials and reinvesting TNC profits in the host country. Studies in Uruguay, Mexico and Morocco have shown that domestic firms in sectors with a large multinational presence tend to be more productive (Kokko 1996, Haddad and Harrison 1993 in World Bank 2002a:92). In addition, TNCs have the opportunity to develop and increase the skills of the host country work force (PDA 2000).

In the late 1960s to 1970s, low cost and abundant labour were the main drivers for MNCs from advanced countries to relocate their manufacturing operations to the Asian NIEs. Yet, the redistribution process has continued in to the 1990s, despite rapidly rising labour costs in these countries. Singapore has experienced a rapid escalation of wage and land costs over the last two decades and today ranks among the most

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<sup>26</sup> Studies also show a positive correlation between access to imported inputs and productivity. It appears that the degree of benefits is greatest where the economy is the least developed (Handoussa 1986, Tybout and Westbrook 1995 in World Bank 2002:93).

expensive manufacturing locations in East Asia. Yet, Singapore continues to attract manufacturing DFI from the US, Japan and Europe. Thus, while increasing productivity has been a major factor in maintaining Singapore's manufacturing competitiveness, it is argued that flexibility and responsiveness in production capacity and reliability of supply chain networks, are increasingly important (Wong 1997:183).

Many anti-sweatshop activists would agree that TNCs also provide an opportunity to be role models for local enterprises. Often TNC factories offer superior work conditions to those in the informal sector, local enterprises in homework and TNCs have an opportunity to raise the bar through their example (<http://www.caa.org.au/campaigns/nike/faq.html#sweatshops>, 28 April 2003). Thus, there are many positive contributions from TNCs in developing countries.

Additionally, there are many opportunities for TNCs to utilise corporate power to advocate for fair labour standards and trade and CSR. For example, the Bodyshop consistently advocates for political, global, CSR and environmental causes and links social justice campaigns with Greenpeace and Amnesty International (Roddick 2000:176-8). Suzuki and Dressel (2002) advocate triple bottom line reporting and the natural step as frameworks for CSR in business (Suzuki and Dressel 2002). Nelson Mandela also comments that corporations should utilise their power responsibly as advocates of development (Mandela in Schwartz and Gibb 1999:138).

## **2.5. Transnational Corporations and Development.**

There are tremendous variations in corporations' contributions to development and in attitudes towards TNCs based on their corporate behaviour. Well-known TNCs such as Nike and the Gap, often gain publicity over allegations of sweatshops and exploitation of workers. Yet, many see TNCs operating offshore as creating credible employment alternatives for developing country citizens. Using development models as a tool for analysis demonstrates that some TNCs are more developmental than others, with some TNCs, clearly contributing to development in their host countries.

As outlined earlier, there are a number of success stories of developmental TNCs operating in developing countries. Their importance can not be overstated as much can be gained from making TNCs more developmental, and positively contributing to the lives of citizens, communities and host countries. Most significantly, foreign TNCs set international standards for industries, and thus, place pressure on local industries to improve their standards, such as with labour conditions (PDA 2000).

Conversely, many corporations have worked to undermine development in the third world through their marginal levels of CSR. Some TNCs have chosen to work in the cheapest places on earth to exploit low cost labour resources and human rights abuses (Roddick 2000:10). Current labour trends such as sweatshops are thus a development issue when corporations exploit workers and human rights in developing countries to maximise profits. Sub-contracting and EPZs are often framed as benefiting developing countries and raising standards of living, but instead can compromise the lives of workers, already living in poverty. TNCs do not always contribute to development progress.

However, the roots of the development disparity lie within the corporate structure itself, which encourages its managers to aim for short-term profits, while constraining TNC freedom to act responsibly or ethically (Mitchell 2001:3). Korten (1995) and Roddick (2000) add that the forces creating the growth and dominance of global corporations are a distorted global economic system, driven by greed and placing profits before people (Korten 1995:9,13 and Roddick 2000:8-9). Profit maximisation however, does not equal the collective aspirations of society (Korten 1995:67).

Economic globalisation also shifts power from governments, towards a handful of corporations and financial institutions, driven by short-term financial gain. Corporations hold a tremendous and disproportionate amount of economic and political power within developed and developing countries (Korten 1995:12). In addition, the



WTO's free trade regime diminishes the power of individual nation states to regulate corporations (Roy 1999:12).

Thus, TNCs contribute in a range of ways towards or away from development. The following box summarises how and when TNCs can be developmental, when working in developing countries.

**Box 2.1. Summary of Key Factors - How and When TNCs can be Developmental.**

**Developmental Behaviours:**

- i) Respect for workers' rights to freedom of association;
- ii) Reasonable working hours with no forced overtime. Overtime does not exceed legal limits per week with at least one day off per week;
- iii) Decent wages. Minimum national wage provisions adhered to or exceeded. Workers are paid sustainable/living wage, which allows them to provide themselves and their families with an adequate diet, housing and basic necessities. Employees are given contracts and paid on time;
- iv) Benefits - no cost/low cost health care and meals are provided to employees. Some factories located closer to rural areas, meaning that employees are not forced to move to the cities for work;
- v) No use of child labour;
- vi) Adherence to health and safety laws;
- vii) Worker education such as health, literacy, business skills and workers' rights;
- viii) TNCs work with international unions and human rights organisations to establish a transparent programme of factory monitoring by independent and credible organisations. Monitoring summaries are released to the public;
- ix) Adherence to company COC;
- x) Independent and confidential procedures for investigating worker complaints;
- xi) Positive linkages/spillovers in host economy. For example, raw materials in production sourced from local economy and TNCs not constantly moving production to cheaper countries;

- xii) Role models for local industries on labour conditions;
- xiii) No human rights abuses. Factories not locked or guarded by police/military;
- xiv) UDHR and ILO mandates adhered to, along with local and international laws.

**Non-developmental Behaviours:**

- i) Not allowing workers to join unions or unions in the workplace;
- ii) Compulsory/unpaid overtime with 7 day work weeks;
- iii) Sweatshop wages, which are less than legal minimum and sustainable living wages. No benefits such as health services or leave provisions;
- iv) Use of child labour;
- v) Safety and health violations in workplace;
- vi) No worker education;
- vii) Refusing independent monitoring/regulation and accreditation with NGOs;
- viii) Refusing implementation of COCs;
- ix) No worker complaint mechanism;
- x) No local development within host country. TNC moves country as soon as labour costs increase and all profits are invested out of the host country;
- xi) Negative role model for other factories;
- xii) Human rights abuses such as physical and verbal abuse in the workplace. Captive workforce with police or military guarding locked gates;
- xiii) Lack of adherence to local or international laws, including UDHR and ILO mandates.

## **2.6. Conclusion.**

To summarise, I have discussed TNCs and a range of corporate behaviours that impact on labour conditions, particularly those of contract workers in developing countries. These behaviours include transformed corporate structures and processes such as corporate politicising and utilising innovations in technology and production, sub-contracting and EPZs and low cost labour in developing countries.

It is difficult to make any generalisations about labour conditions within TNC factories as TNCs provide many types of working conditions – negative and positive - in different countries and regions of the world. There are many reports of TNCs contributing negatively through sweatshop work conditions and wages and human rights abuses, further deepening poverty levels. Some TNCs however, contribute positively through the creation of a significant number of secure jobs and educational opportunities for workers. In addition, foreign TNC factories often offer superior work conditions to local factories, home workers and the informal work sector.

TNC behaviour also impacts on developing countries in a range of negative and positive ways. Negative impacts include contributing to the global division of labour and decreasing demand for local products and industries, disadvantaging local businesses. Moreover, developed world lifestyles are marketed in the developing world, increasing expectations of wealth and unsustainable consumption to developing world citizens. People feel poor as they see such global inequalities and this is not a foundation for peace and security.

Positive impacts of TNC behaviour include their contribution to the development of healthy economies through positive spillovers. Sub-contracting has acted as a training school, enabling local firms to overcome barriers and assimilate manufacturing and design technology, which has developed local industries and improved GDP. Some TNCs also act as positive role models for local industries in terms of labour conditions.

Development models aim to create capacity and economic self-reliance, alleviate poverty and meet the basic needs of all citizens. Yet, the majority of the world's citizens continue to live in poverty and do not have access to quality jobs or adequate healthcare, education, food and water. The lack of these basic living requirements has created insecurity, volatility and underdevelopment in the lives of the majority of the world's population, living in the third world.

Economic growth through corporate action is expected to improve the quality of all lives. Instead, some corporations have worked to undermine development in developing countries, as their vast financial benefits have not extended to those in poverty and most vulnerable. Using developmental models as a measure of TNC behaviour, some TNCs offer developmental opportunities to workers while others do not. Less developmental opportunities include lack of adherence to core labour standards and rights, providing sweatshop work conditions and wages and abuse of employees. Some TNCs however, do contribute to development in a number of ways such as adhering to core labour standards and providing decent wages, education and safe workplaces for employees.

In this chapter, I have discussed how corporate behaviour has many impacts for the developing world. Yet, corporate behaviour is determined by a number of factors, internal and external to the corporation. These determinants of current corporate behaviour are now discussed in Chapter III, the environments in which TNCs operate.

### CHAPTER III:

## THE ENVIRONMENTS IN WHICH TRANSNATIONAL CORPORATIONS OPERATE

*“Shifting a significant portion of our manufacturing from the US and Canadian markets to contractors throughout the world will give the company greater flexibility to allocate resources and capital to its brands. These steps are crucial if we are to remain competitive” John Ermatinger, President of Levi Strauss American Division, explains the company’s decision to shut down twenty-two plants and lay off 13,000 North American workers between November 1997 and February 1999 (in Klein 2001:195).*

Corporations and their behaviour are influenced by the internal and external environments in which they operate. Internal environmental factors include staff and management decision-making and the culture and goals of the organisation. External environmental factors include global factors such as globalisation, free trade, international organisations and agreements and core labour standards.

In this chapter, I discuss the roles of key internal and external environmental factors in their determination of current corporate behaviours. I also explore how these factors influencing corporate behaviour, additionally contribute to a range of labour conditions – both positive and negative - in developing countries. Within the discussion of external environmental factors, I investigate the influence of core labour standards and its regulatory mechanisms - the market, self-regulation, national and international law, international organisations and civil society – on corporate behaviour. I then explore the concept of CSR and describe its evolution within US corporate history.

There are numerous factors that influence corporations and their actions. Here, I discuss key factors influencing corporations in their contribution towards labour conditions in developing countries, particularly for TNC contract workers.

### **3.1. Determinants of Corporate Behaviour.**

Corporations are often targeted as creating deplorable sweatshop conditions in the developing world but there is actually much complexity in this debate. It is true that TNCs have direct control over many of their actions but TNCs are also actors in a global environment, which enables and determines much of their business activity. The following is an analysis of the environments in which TNCs operate and how these environmental factors contribute to current corporate behaviours, affecting labour conditions in developing countries.

### **3.2. Internal Environmental Factors.**

Corporate behaviour is determined by a range of individual characteristics or internal environmental factors. Key internal factors influencing corporate behaviour include corporate goals and ethics, organisational culture and levels of corporate politicising.<sup>27</sup> These are now discussed.

#### **3.2.1. Corporate Goals and Ethics.**

Corporate goals and ethics, whether explicitly or implicitly stated, affect corporate policy, cultures, decision-making and behaviour. Corporations usually operate with clear ideological deliberation in their external statements of goals, aims and mission statements, often adding statements of ethics or CSR. For example, Nike's mission statement is "to bring inspiration and innovation to every athlete in the world," and its corporate responsibility vision is "to be an innovative and inspirational global citizen in a world where our company participates. Every day we drive responsible business practices that contribute to profitable and sustainable growth" (<http://www.nike.com>, 13 May 2003). Yet, whether stated explicitly or not, corporations also operate from internal goals and visions, which span a continuum of individual views on profit making, ethics and survival.

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<sup>27</sup> Corporate politicising was discussed in Chapter II.

There are variations within business enterprises in their attitudes towards profit making, but a chief characteristic among TNCs today is a fervour for profit maximisation in decision-making and corporate behaviour. Making a reasonable profit is no longer enough as greed and massive profits are encouraged (Klein 2001 and Korten 1995:205).

Moreover, as consumer and labour protections no longer exert the same authority today as they once did, corporations have de-linked themselves from past obligations to human interest in order to maximise profit. Examples of this de-linking include an aggressive approach to redundancies (even when profits are being made), relocating to developing countries (to utilise lower-cost labour) and reducing wages and benefits to staff (Korten 1995:205,244). For instance, Levi Strauss announced US redundancies when company revenue dropped from \$7.1 billion in 1996 to \$6.8 billion in 1997. A four per cent dip in profits hardly seemed to explain the company's decision to close 22 US plants and lay off 16,310 workers over two years (Klein 2001:200). Korten (1995) states that the nature of the industry is very competitive, even when it doesn't need to be (Korten 1995:205).

In addition, corporate salaries and celebrity endorsements are skyrocketing, alongside decisions to pay low wages to factory employees. For example, the British Broadcast Corporation (BBC) reported that golfer, Tiger Woods, will receive 90 million dollars from Nike over the period 1999 to 2004 (<http://news/bbc.co.uk>, 15 May 2003 and LaFeber 2002:65). These disparities demonstrate corporate decisions and priorities on ethics and profit making.

Many corporations would defend their decisions as made solely in respect to their shareholders and in the context of the global competitive market. Ultimately, a corporation's most important and overall goal is to satisfy its board of directors and shareholders by being competitive, maximising profit and surviving (Madeley 1999:2).

However, not all corporations advocate for profit at any cost. Corporations such as the Body Shop, have led the way in fair and just business practice. Anita Roddick founded

one of the world's best known publicly traded corporations, the Body Shop, known for its adherence to environmentalism and social justice principles (Suzuki and Dressel 2002:46).

### **3.2.2. Organisational Culture.**

Corporate culture encompasses the individual personalities of staff, boards of directors and shareholders, management decision-making style and levels of training/education of employees. All aspects of organisational cultures contribute towards corporate decision-making and behaviour.

There are many types of cultures within corporations but overall, cultures have changed markedly as workplaces have become more competitive, survival oriented and changeable over the last decades. Gone are the security of jobs for life and loyalty in the workplace. These workplaces are replaced by insecure environments with long hours, reduced conditions, increased demands for worker productivity and casualisation of jobs (Klein 2001:231 and Korten 1995:243-44).

Senior management and boards of directors particularly influence actions and decision-making (Stiles and Taylor 2001:1). Senior corporate management varies in their capacity as good employers. Some corporations advocate for employee development through education and training, limiting or avoiding redundancies and CSR in decision making - including a fair level of wages and work conditions for all employees throughout the organisation. For example, Hubbards Food Limited (Hubbards), affirms a collective set of beliefs and values that are an integral part of the social structure of the local community, such as creating as many jobs as possible and providing work for those who have been long-term unemployed (<http://www.hubbards.co.nz/>. 13 May 2003).

Conversely, other corporations are more aggressive in terms of making profit and will close down factories and relocate jobs to other countries as purely financial decisions.



For example, Nike's decision to outsource production is affirmed by its CEO, Phil Knight (Klein 2001:197)

### **3.3. External Environmental Factors.**

There are many factors external to corporations, which influence corporate behaviours. Key external factors affecting current corporate behaviours and labour conditions in developing countries include national and international competition, government policy, international economic regimes, foreign policy agendas, international institutions and agreements, core labour standards and their regulation and civil society activism. (The roles of Government and civil society are discussed later in the chapter, within core labour standards).

#### **3.3.1. National and International Competition.**

Corporations must be profitable in order to survive in a competitive global environment. It is perceived that to succeed today, corporations must follow a survival of the fittest philosophy where companies must compete more aggressively to survive than they ever did (McMichael 2000:96).

In the past, trade was limited by transport and government regulation and corporate markets were restricted to local areas and national markets. Increasingly, due to globalisation and free trade, markets are almost unlimited and this affects corporations through increasing opportunities for global competition. Developed world TNCs are thus competing with the labour costs of developing countries and this places a burden on developed world TNCs as they strive for a place in the market. In order to stay profitable, many corporations feel the pressure to constantly reduce prices in order to compete with lower-cost imports (Bandow and Vasquez 1994:343-46).

This competitive pressure pushes many corporations into making controversial decisions in order to maximise profit and survival. For example, Levi Strauss created thousands of US redundancies when it moved its manufacturing jobs offshore (Klein

2001:2000). Another US corporation, Wal-Mart, won the Sweatshop Retailer "People's Choice Award" for the company most connected with sweatshop abuses in 2002. According to the Maquila Solidarity Network, in Lesotho alone, Wal-Mart-producing factories reported excessive hours and forced overtime, poverty wages, verbal and physical abuse, sexual harassment, strip searches and violation of the right to freedom of association<sup>28</sup> (<http://www.maquilasolidarity.org/awards.htm>, 13 May 2003).

Such TNC competition and ruthlessness in reducing labour costs, determines the levels of labour conditions evident within contract factories in developing countries.

### **3.3.2. International Economic Regimes.**

International economic regimes such as free trade, economic globalisation and neo-liberalism<sup>29</sup> contribute significantly to corporate behaviour. These regimes are now discussed.

#### **Free Trade.**

The core of Free Trade theory is based on the gains made from trade and comparative advantage, with assumptions that trade increases the efficiency of resource allocation, that any country can benefit by cutting protection and that free trade requires structural adjustment. For over two centuries, economists have agreed that there is economic benefit from specialisation, trading goods and services and comparative advantage<sup>30</sup> (Dunkley 2000:12-13,109-110).

Free trade, however, is not a natural state and must be constructed and enforced, dependent on a number of crucial assumptions being met such as the existence of perfect competition and perfectly mobile labour.<sup>31</sup> Free trade theory is then being

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<sup>28</sup> Wal-Mart also faces charges for worker rights violations in its own US stores. According to the US federal labour board, Wal-Mart workers trying to organise unions, have faced illegal intimidation and harassment (<http://www.maquilasolidarity.org/awards.htm>, 13 May 2003).

<sup>29</sup> Free trade is a chief component within economic globalisation and neo-liberalism.

<sup>30</sup> The foundation of modern free market theory is based in the work of Adam Smith's mutual gains from trade and David Ricardo's specialisation and trade based on comparative advantage (Dunkley 2000:109).

<sup>31</sup> Other assumptions include buyers having perfect information about the market, perfectly mobile capital which does not routinely move internationally, fixed technology production processes, constant returns to scale, no

misused, as most of these assumptions are not met in practise (Dunkley 2000:28,110 and Starr 2000:11). Despite this, free trade has almost total control over the “worlds ideological airspace” (Dunkley 2000:133).

Free trade theorists believe increased trade should foster job regeneration and more equitable income distribution (Dunkley 2000:159 and Griesgraber and Gunter 1997:viii). This has occurred in some but not all developing countries as free trade has adverse consequences for some nations (World Bank 2002b:28).

Instead, free trade’s impacts include the subjugation of democratic values and basic human and labour rights to the imperatives of international trade. Enactment of free trade deals virtually guarantees that corporations can dismiss a nation’s labour requests as burdens and threaten workers with moving to other countries. Free trade theory also assumes that people are simply malleable resources and their living and working conditions are not considered (Dunkley 2000:39,129 and Wallach and Sforza 2000:11-12).

The impacts of free trade work to directly displace local industry and employment in developing countries through competition with developed world TNCs (Dunkley 2000:129). Developing country firms can not compete with first world products or with the lack of internal industry protection. As TNCs absorb developing country market share and purchasing, free trade then contributes to the deprivation of developing country livelihoods (Korten 1995:114-115).

Furthermore, conventional indicators such as increases in GDP and economic growth via trade do not accurately reflect true welfare, as they often co-exist alongside sweatshop work conditions and poverty. Thus, a non-economic rather than an economic view of free trade’s impacts is useful and indicates that public policy goals require separate consideration from economic goals (Dunkley 2000:12-14,125-7).

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significant or long term unemployment, voluntary international trade, gains spent nationally, eternal trade always in balance, market prices reflecting real costs and inflation not affecting trade (Dunkley 2000:110 and Starr 2000:11).

Free trade is thus a brewing disaster for the developing world, vulnerable to declining living standards (Wallach and Sforza 2000:9). Regardless, free trade is enforced throughout the world at the detriment of many workers in developing countries and for the benefit of the developed world and TNCs.

Alternative views of trade exist which focus on fair or just trade, the focus being on ethical trade that directly benefits the producers in developing countries. For example, The Body Shop is committed to Trade Not Aid as opposed to free trade (Roddick 2000:226).

### **Economic Globalisation.**

Economic globalisation<sup>32</sup> encompasses a range of economic models and theories – rationality of the open world economy, level field free trade, open national economies to investors and TNCs, deregulation of financial markets, encouragement of financial speculation and capital transference and a reduced state role in market regulation (Dunkley 2000:235, Madeley 1999:17 and McMichael 2000:298).

In the 1980s, globalisation took off aided by SAPs and liberalism, and now is almost universally accepted with every country being asked to fit the same model (Korten 1995:229, Madeley 1999:17 and Roy 1999:vii,88). Globalisation and market mechanisms are deemed essential for a modern society with pay-offs in good jobs, health and safety, a clean environment, economic and global stability and strong secure families and community. Many see economic growth via globalisation and the market as the solution to poverty (Korten 1995:91-2,229 and World Bank 2002b).

Proponents of globalisation focus on its contributions to material prosperity and benefits for citizens in developing countries (McMichael 2000:190, Roy 1999:6 and

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<sup>32</sup> McMichael defines globalisation as a “vision of the world and its resources as a global organised and managed free trade/free enterprise economy” (McMichael 1996:300). Giddens (1990) adds that globalisation is “the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events many miles away and vice versa” (in Richter 2001:1).

World Bank 2002b). Globalisation is said to reduce poverty because more integrated economies tend to grow faster. As low-income countries break into global markets for manufactures and services, poor people should move from poverty to better jobs (World Bank 2002a:1).

Yet, globalisation does not reduce poverty everywhere as many developing countries have not benefited (World Bank 2002a:3). In fact, opening markets and restructuring economies has created significant problems for many developing countries and the majority of the world's citizens and workers (Korten 1995:240). Globalisation has shown to neglect social factors, increase global and national inequalities and can decrease the overall wealth of societies (Dunkley 2000:165-6 and Korten 1995:104-6,187). The ratio of average incomes in the richest and poorest countries was 9:1 at the end of the nineteenth century but is now 60:1. Globalisation protagonists create the perception that the poor are catching up but in reality, the gap has dramatically widened (Roy 1999:101).

In addition, globalisation actively benefits TNCs. In the 1980s and 1990s, many developing countries liberalised their economies and removed tariff barriers, making them more attractive and lucrative for TNCs (Madeley 1999:3). Developed country TNCs for the first time, have been able to utilise abundant developing country labour within the global market (World Bank 2002a:5). Yet, global production has created a borderless world beyond the control of any one government, weakening the power of national governments and strengthening the relative power of TNCs (Dunkley 2000:235, Korten 1995:127 and Wallach and Sforza 2000:9).

Globalisation has enabled developing country workers to work for developed country TNCs but with poor wages and work conditions. Thus, while rewarding TNCs, the results of globalisation weaken labour conditions and are disastrous for developing world citizens (Korten 1995:114-115).

### **Neo-liberalism.**

Neo-liberalism is the predominant global economic model of the latter twentieth and twenty-first centuries, emphasising the superiority of economic growth, supply side economics, privatisation of public corporations, free trade and a minimal role for the state in economic development (Roy 1999:vii and Vlachou 1999:2-3). By the late 1980s, economic rationalism and free trade views had become dominant amongst economists, policy making and corporate boardrooms in most western countries (Dunkley 2000:45, Korten 1995:66 and Roy 1999:2).

Many state that neo-liberalism is the only way towards development. Yet, neo-liberalism has contributed to increased corporate power and affirmed poor labour conditions for those in developing countries. Neo-liberalism has also contributed to many destabilising effects such as the bifurcation of labour, legitimacy crises of governments and reduced prioritisation of public policy goals such as labour conditions (McMichael 2000:190).

In addition, markets have emerged as the ruling international authority beyond the control of any government, with an average of 1 trillion dollars worldwide traded daily (Roy 1999:95-96). Labour conditions in developing countries are thus impacted when business and the market are given license to act in any way they choose, especially when the market is exempt from accountability (Korten 1995:100).

Moreover, in economics and business today, there is a never-ending call for expansion and increased economic growth (McMichael 2000:37). However, Korten (1995) states that constantly increasing efficiency and output with less input is not real and the only beneficiaries of increased production are owners of capital (Korten 1995:240). Despite productivity increases, wages have failed to rise and standards of living have actually declined for many. Thus, it is inappropriate to singularly allow markets to determine public policy goals, such as reducing income inequalities, poverty and sweatshop working conditions in developing countries (Korten 1995:98 and Wallach and Sforza 2000:16).

Thus, neo-liberalism has benefited TNCs but has conversely been detrimental for workers and citizens in developing countries.

### **3.3.3. Foreign Policy Agendas.**

Foreign policy agendas have also influenced corporate behaviour. Key influences include US international dominance, the New World Economic Order and consensus building forums. These are now discussed.

#### **United States Dominance and the New World Order.**

The US has dominated and shaped institutions of the post-war world through its assumption of the role as the world's most powerful nation. George Bush senior's 'New World Order' declared to the world that the US was the "one sole and pre-eminent power". The US has laid down its world order and shown its preparedness to enforce this order in its domination of global economics, militarism, and cultural and technological forces (Roy 1999:91-94).

In 1974 at the UN General Assembly, demands were made for the establishment of the New International Economic Order, based on the New World Order. This arose out of the belief that "nothing short of complete restructuring of the prevailing world order would provide an ending solution to the world economic problems particularly those of the developing countries". This New World Economic Order entails harmonisation of the world business system and power to the free market system over local interests (Korten 1995:121-32 and Roy 1999:10).

The New World Economic Order has been significant in increasing corporate power and reducing labour conditions as corporations no longer need to operate with a nationality and governments have less power to protect their economic and local interests. The New World Economic Order was supposed to prioritise the needs of the poor but instead, their needs have been suppressed in favour of the needs of corporations (Korten 1995:121-23).

US dominance has also shaped other international organisations to its economic advantage. The WTO framework was worked out largely by the US and through its pressure, TNCs were ensured a global monopoly (Griesgraber and Gunter 1997:1,24 and Korten 1995:173). In addition, the extent to which GATT and WTO provisions prevail within a member country varies. The current European Union practice is that GATT and other international agreements are self-executing upon ratification and take precedence over national laws. In the US, such agreements are not applicable until incorporated in enabling legislation and GATT is not deemed a full treaty. Thus, the US uses the WTO selectively, its decisions can not be forced on the US and the US protects its own national sovereignty, while pressuring other countries to adopt policies tailored to US requirements (Dunkley 2000:75,222).

In addition, US power determines World Bank and IMF policy as both agencies work in tandem with the US Treasury (Wade 2001:124). World Bank and IMF policies originated with the US Treasury's "most crucial international priority," building free capital markets that benefit financial interests of the US and the advanced industrialist world. Since the Second World War, the strategy to enlarge the world's free market democracies has been a central aim of US economic policy.<sup>33</sup> In its efforts to contain communism, the multilateral economic organisations, above all the IMF and World Bank, have been important vehicles for the US security mission, to promote the enlargement of market democracies<sup>34</sup> (Wade 2001).

The world economy has opened up to ensure US access to and dominance of markets, and to deepen the dependence of low-income countries on global systems, creating corporate colonialism. This ensures that the US has access to a grand area of the world to assure US domestic economic and military requirements are met, that US access to

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<sup>33</sup> If the US can persuade powerful segments of national elites to embrace the free market ideology, it can achieve its foreign economic policy objectives far more cheaply and effectively than through negotiations or coercion (Wade 2001:124).

<sup>34</sup> The World Bank has been an especially useful instrument for projecting American influence in developing countries and one over which, the US maintains discrete but firm institutional control. The Bank's president is effectively chosen by the US - which has 17 per cent of the vote's cast as compared to 6 per cent for Japan (at



markets and resources create an export surplus and full employment domestically, and that the US economic model of prosperity is globalised (Korten 1995:135-60).

Most importantly, there has been almost commonplace acceptance of this US foreign policy agenda. Today, US world dominance is so complete and unchallenged that Americans have begun to turn their backs on the rest of the world (Roy 1999:88). Labour and living conditions of those less fortunate in developing countries do not appear as a priority in US and international affairs. In fact, UNDP (1999) reports that US world domination has accelerated the wealth gap between rich and poor nations (in Mitchell 2001:2).

The US has shaped international foreign policy over the last decades, creating a global environment ripe for US and TNC dominance, while simultaneously neglecting developing countries and those in poverty. TNCs have gained a large amount of economic and political power while national states have lost and given away much of their decision-making powers to TNCs and other institutions. At the international level, decision-making powers have shifted away from the democratically accountable UN agencies towards the less democratically accountable World Bank, IMF and WTO. There are many problems caused by the blurring of distinction between commercial and civil society interests and frequent neglect of disempowered people (Richter 2001:32).

### **Consensus Building Forums.**

Consensus building forums are alliances of organisations that bring together heads of corporations and leaders of political parties for discussions and consensus building processes (such as the Council on Foreign Relations, the Bilderberg Group<sup>35</sup> and the Trilateral Commission) (Korten 1995:134-9).

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number two) and 4.7 per cent for Germany (number three). The US is also the only member state able to exercise a veto on various key constitutional issues (Wade 2001: 125-7).

<sup>35</sup> The Bilderberg Group advanced the concept of regional groups and tri-lateralism with North America, Western Europe and Japan, drawing together the highest ever-unofficial alliance, with tremendous collective power (Korten 1995:136137).

Policy actions advanced by these elite alliances have attacked democracy and human and labour rights while major corporations have received backing and increased power from governments involved in these forums. For instance, these groups called for the harmonisation of labour standards to promote business interests (Korten 1995:138-139). EPZs are a further example of how the international community has bonded together to create economic zones and conditions suitable for corporations, but at the expense of the workers. These elite interests have neglected the rights of workers and focused on the rights of corporations (McMichael 2000:94). Thus, consensus building forums have been effective in aligning institutions with the economic globalisation agenda while setting an international agenda with little regard to the poor or developing country participation (Korten 1995:134-139).

#### **3.3.4. International Organisations and Agreements.**

International organisations and agreements influence corporate behaviour and labour conditions in developing countries. The roles of key international institutions and agreements from the Bretton Woods Institutions (BWIs) are now discussed. (The role of the WTO is discussed later in this chapter, within core labour standards).

##### **The Bretton Woods Institutions.**

In 1944, the BWIs – the World Bank, IMF and GATT - were created to stabilise national finances, revitalise international trade, underwrite national economic growth, fund third world imports of first world infrastructural technologies and expand third world primary exports to earn foreign currency in order to purchase first world exports (Korten 1995:159-60 and McMichael 2000:48).

##### **The World Bank and International Monetary Fund.**

The IMF was established to promote international monetary co-operation, exchange stability and orderly exchange arrangements, to foster economic growth and high levels of employment, and to provide temporary financial assistance to countries to help ease balance of payments adjustment. Since the IMF was established, its purposes remain unchanged but its operations – which involve surveillance and financial and technical

assistance – have developed to meet changing needs of member countries (<http://www.imf.org/>, 16 May 2003 and Bandow and Vasquez 1994:16-17).

The initial purpose of the International Bank of Reconstruction or World Bank was to finance European reconstruction. The US Marshall plan was more effective in this regard and the Bank's new mandate became to facilitate capital investment in backward and underdeveloped regions and open them up for development. World Bank lending incorporated large-scale loans to low income countries for national infrastructure projects<sup>36</sup> (for example, dams and highways) (Korten 1995:135-164 and McMichael 2000:48). Together, the two agencies determine whether developing countries get access to aid money and how it is spent (Bandow and Vasquez 1994:17).

World Bank and IMF policies have had severe affects on many developing countries, particularly in reshaping values and markets by leveraging aid in exchange for furthering free market policies. SAPs<sup>37</sup> forcibly integrated developing countries into the global market economy and weakened their structures by reducing governance and trade, social and labour protections (Bandow and Vasquez 1994:1 and Korten 1995:165).

The World Bank and IMF advocated a fundamentalist market ideology that has never been practised in industrialised countries, often rewriting a country's "trade policy, fiscal policies, civil service requirements, labour laws, health care arrangements and environmental regulation" (Korten 1995:165). Thus, the World Bank and IMF as leading proponents of economic rationalism and developed world interests,<sup>38</sup> have detrimentally affected living and working conditions in the developing world (Korten 1995:106).

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<sup>36</sup> Loans represented western technology transfer and established a first world institutional presence in the third world (McMichael 2000:50).

<sup>37</sup> Structural Adjustment Programmes (SAPs) are imposed packages of policy prescriptions placed on indebted nations. These economic reforms had two purposes - to ensure loans were repaid and to advance the global economy (Korten 1995:164).

<sup>38</sup> Control of the World Bank has been dominated by first world shareholders. In the 1990s, the ten richest industries controlled 52 per cent of the vote. 45 African countries controlled 4 per cent of the vote (McMichael 2000:49).

The results of SAPs have been a failure or mixed at best for the developing world (Bandow and Vasquez 1994 and Griesgraber and Gunter 1997:1). Many developing countries have only repaid their debts through increased borrowing or defaulted on their loans. By the mid-1990s, foreign debt emerged as the single factor keeping developing countries in poverty. The World Bank has been key in undermining third world development and admits that it has widened the rich/poor gap. Additionally, there has been considerable damage to health care, education and labour protection. Thus, the World Bank and IMF have promoted elite and corporate interests while undermining living and working conditions in the developing world (Korten 1995:160-167 and Madeley 1999:19-24).

### **General Agreement on Trade and Tariffs.**

GATT was founded after the Second World War as an institution to peacefully regulate world trade. GATT lacked the jurisdiction of a permanent institution<sup>39</sup> as it came into effect as an interim trade agreement, pending the creation of the International Trade Organisation (ITO) as the permanent UN trade agreement. GATT's<sup>40</sup> functions were to reduce trade barriers and "halt and roll back the rising tide of protectionism" (Dunkley 2000:31,52 and Nader 1993:2). GATT is generally considered a success in reducing tariffs and increasing trade volumes around the world and became the world's main avenue for resolution of trade disputes (Dunkley 2000:31,52, Griesgraber and Gunter 1997:xv and Nader 1993:2).

The Uruguay Round of GATT negotiations (1986-94) expanded its concerns beyond traditional trade matters, allowing countries the freedom to invest anywhere in the world (Nader 1993:2). GATT prohibited internal support programmes and import controls to protect small producers and encourage self-reliance and export subsidies. GATT also facilitated the flooding of third world countries with western style commercial goods and services (Dunkley 2000:102 and Wallach and Sforza 2000:56).

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<sup>39</sup> In 1948, negotiations on the ITO were completed and the final act – the Havana Charter – was signed at the UN Conference on Trade and Employment. The ITO was a socially based agreement that was never ratified, as the US would not back it (Griesgraber and Gunter 1997:xv,xvii,3 and Dunkley 2000:27).

<sup>40</sup> More than 100 nations responsible for 80 per cent of world trade belong to GATT (Dunkley 2000:31,52 and Nader 1993:2).

GATT particularly gained legitimacy in the supervision and running of developing countries' trade policy and removing third world industry protection (Griesgraber and Gunter 1997:4). Starr (2000) outlines that the 1994 Uruguay Round of GATT affirmed "the right to free trade as having precedence over human, civil, workers and governmental rights" (Starr 2000:vii). Thus, for countries that modelled free trade, there have been substantial welfare losses (Dunkley 2000:145).

GATT also harmonised environmental and safety standards, disallowing the improvement of labour conditions, resulting in labour conditions being pulled down to the lowest common denominator (Dunkley 2000:102, Nader 1993:2 and Wallach and Sforza 2000:56). Thus, GATT has determined much of current corporate behaviour and has severe impacts on developing country citizens and labour conditions.

Few virtues or gains from GATT are seen when development goals rather than economic growth are used as the measure of progress. Studies of its benefits show increasing export opportunities but these are associated with increased imports and their net effects are seldom clear in advance (Dunkley 2000:5,135). Any gains are also distributed unequally with projected losses for some countries and regions, and the European Union, Japan and US, likely to reap most benefits<sup>41</sup> (Dunkley 2000:136 and Griesgraber and Gunter 1997:xvii). Thus, GATT has created ideal environments for corporations while undermining developing countries and their labour conditions.

It was not envisaged that the BWIs would have their present role, formulating their own economic and development policies and usurping the charter of the UN. Of most significance for the developing world has been the influence of developed country governments via BWIs, in determining third world economic policy. BWIs have ensured that the policies of the major industrial countries are carried out in the developing world. Yet, BWIs have no influence over major industrial countries (Griesgraber and Gunter 1997:1). BWIs have thus worked to disempower citizens from

developing countries through conscious decisions based on elite interests (Korten 1995:181).

These international agreements leave nations little room to manoeuvre around corporations, as governments are not able to utilise previous controls over trade and labour (Madeley 1999:5). Thus, developing country governments and labour forces have weak bargaining positions, especially in the areas of labour and human rights (McMichael 2000:281).

### **3.4. Core Labour Standards.**

Core labour standards are an additional external influence on corporations and their behaviour, as all business enterprises are legally required to adhere to local and international labour law. International agreement on legally binding core labour rights exists through the UN Declaration of Human Rights (UDHR) (See Appendix 1 – UDHR) and ILO Fundamental Principles and Rights at Work (See Appendix 2 - ILO Fundamental Principles and Rights at Work). These two key international agreements have determined international core labour standards.<sup>42</sup>

The UN Commission on Human Rights outlines core labour standards within the 1948 UDHR. The UDHR set forth inalienable rights and fundamental freedoms of every person, with 30 legally binding principles and provisions on labour rights such as just and favourable conditions of work, freedom of association and an adequate standard of living (Organisation for Economic Co-operation and Development (OECD) 1996:38). In 1998, the ILO produced a Declaration on Fundamental Rights at Work, which obliges all countries to respect core labour standards (The Economist 1998:25 and

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<sup>41</sup> Industrialised countries which make up only 20 per cent of membership of GATT, will appropriate 70 per cent of the additional income to be generated by the implementation of the Uruguay Round (McMichael 2000:210).

<sup>42</sup> Other organisations and agreements contribute to core labour standards, such as the UN Global Compact, the Millennium Development Goals, the OECD Guidelines for MNCs and various Codes of Conduct. For the purpose of this dissertation, I focus on and the UDHR and ILO Fundamental Principles and Rights at Work as global core labour standards.

<http://www.ilo.org/>, 10 December 2002). The Declaration names fundamental rights such as freedom of association, collective bargaining, elimination of forced or compulsory labour, abolition of child labour and elimination of discrimination in respect of employment (<http://www.ilo.org/>, 10 December 2002).

However, significant regional disparities in labour conditions make international minimum labour conditions a complex issue. For example, many activists advocate for an international minimum wage. Yet, some in the third world, desperate for business from the developed world, do not want such wage levels imposed.<sup>43</sup> In Viet Nam for example, people's willingness to work hard for less money remains their most competitive advantage. Imposing an international minimum wage may hurt the industry in a form of protectionism (Elder 1999). As previous industry success in Viet Nam is mainly due to low labour costs at less than US 25 cents per hour (among the lowest in the region), many believe it is still necessary for enterprises to increase their price competitiveness to ensure their survival (Mekong Project Development Facility (MPDF) 2000:9-10). Furthermore, core labour rights and standards are not cultural values and thus, less open to debate and interpretation (Richter 2001:7 and Schoenberger 2000:103).

### **3.5. Regulation of Core Labour Standards.**

Regulation of labour rights is required to ensure accountability to society at large that international standards are being met (Richter 2001:6 and Roddick 2000:16). Without regulation and enforcement, there may be tendencies toward illegal activity, as competitive firms will always pursue minimum cost products, irrespective of how they are produced (Dunkley 2000:121 and Roddick 2000:16).

There is ongoing debate over how to regulate and enforce labour standards through the international community (OECD 1996:9). Corporations often state that core labour standards are effectively regulated internally through market forces and corporate self-

regulation. Others state that in addition, core labour standards must be externally regulated through national governments, international organisations and civil society. The merits, weaknesses and complexities in the external and internal regulation of TNC core labour standards are now discussed.

### **3.6. External Regulation.**

#### **3.6.1. Governments.**

Until recent decades, governments played the most important role in regulating corporations and labour standards through national labour law. Most democratic countries have in place a web of government regulations to protect workers' safety and guarantee these rights in law (Richter 2001:7).

Yet, governments have not always been the most effective in this role. Not all governments are necessarily pro-labour, as many governments operate under the philosophy of neo-liberalism and market rule, rather than market regulation. Moreover, in contrast with more industrialised economies, in areas such as East Asia, legal provisions generally aim at restricting rather than protecting the rights of workers. Laws governing industrial relations and suppression of labour rights are sometimes more severe in firms oriented towards the domestic market than in foreign TNCs (Deery and Mitchell 1993 in Manning 1998:134). Even with these restrictions, breach of laws is widespread and military intervention in 'settlement' of disputes in favour of employers was widespread in Korea, prior to democratic reform and continues to be a feature of industrial relations in Indonesia. Even when governments put in place progressive legislation - often partly to appease domestic and foreign lobby groups - they have been unprepared or unable to provide workers with the means to effectively police the implementation of such legislation (Manning 1998:135).

Despite Government's important regulatory role, corporations have even greater power and are little constrained by legislation (Addo 1999:4, Estes 1996:22, OECD 1996:18

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<sup>43</sup> Many in the third world do want improved wages and conditions as advocated by Vietnam Labor Watch



and Ross 1997:41). Most corporations acknowledge that they do business on the basis of laws of the host country, but this has been inefficient guidance for employers dealing with complex cultural issues. Thus, governments have increasingly become a poor avenue for regulation and enforcement of core labour standards and rights (Addo 1999:107 and Schoenberger 2000:100,242).

Traditionally, individual states worked to hold corporations accountable for their activities and to safeguard the public. Today, many acknowledge a need for alternative global governance institutions to oversee and regulate TNCs, trade and financial transactions (Suzuki and Dressel 2002:72). Thus, it may be necessary to join national and international legislation in the regulation and enforcement of core labour standards, in order to hold corporations accountable for their operations overseas (Addo 1999:133 and Richter 2001:8).

### **3.6.2. International Organisations.**

There are many international organisations, which work to regulate corporations through core labour rights and standards. For the purpose of this dissertation, I have considered only the key roles of the UN, ILO and WTO.

#### **United Nations.**

The UN<sup>44</sup> works to promote human rights and fundamental freedoms and maintain international peace and security. Although the UN recognises the ILO as the specialised agency responsible for taking action on labour matters, the UN has a number of key agreements and organisations that have contributed to the formation of core labour standards and rights (<http://www.un.org/>, 16 December 2002).

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(<http://www.saigon.com/~nike>).

<sup>44</sup> The purposes of the UN are to maintain international peace and security, to develop friendly relations among nations, to co-operate in solving international economic, social, cultural and humanitarian problems, to promote respect for human rights and fundamental freedoms and to be a centre for harmonising the actions of nations in attaining these ends (<http://www.un.org/>, 16 December 2002).

The majority of countries align themselves as signatories to various UN human rights standards<sup>45</sup> such as the UDHR (OECD 2000:7), and the UN is involved with the regulation of core labour rights through its various committees, conventions and the Human Rights Commission. When a state ratifies an international treaty, it assumes obligations to implement the provisions of the treaty at national level and to submit reports periodically to the treaty bodies, ensuring treaty implementation (<http://www.itsilo.it/>, 21 March 2002). Examination of these reports culminates in the adoption of concluding comments in which the treaty body presents its concerns and recommendations to the country's government for its future action. The nation's government is expected to undertake the necessary measures to implement the recommendations of the treaty bodies. Thus, UN regulation and enforcement of core labour standards outlined in the UDHR, is based upon reporting and dialogue between each state and the UN (<http://www.unhchr.ch/html/abo-intr.htm>, 9 December 2002).

### **International Labour Organisation.**

One of the main purposes of the ILO is the promotion of international labour standards to promote social justice and lasting peace. Since 1919, the ILO has adopted 175 labour standards and fundamental worker rights on health and safety, wages, hours of work and working conditions (Mehmet, Mendes and Sinding 1999:74, OECD 1996:21 and <http://ilo.org/>, 3 July 2002). Once ratified, ILO conventions create binding legal obligations, and even in the absence of ratification, they serve as a standard of reference for national law and practice (<http://www.nathannewman.org/>, 1 November 2002).

At an international level, labour standards regulation is the domain of the ILO. The ILO supervisory system reports on ratified conventions at required intervals (each two years for core conventions) (Mehmet et al. 1999:71,99 and OECD 1996:154-5). Committees examine reports and point out inadequacies to governments, along with

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<sup>45</sup>Despite the US's leading role in establishing the UN system (particularly, in establishing the UDHR), it has been reluctant to submit itself to many international rights laws and to accept the same minimum standards for its own conduct, that it demands from other countries (Schoenberger 2000:12).

requests to correct them. There is little international publishing of transgressions (Mehmet et al. 1999:71,72 and <http://www.nathannewman.org/>, 1 November 2002).

Addo (1999) and Mehmet et al. (1999) argue that the UN and ILO lack enforcement power as the systems ultimately rely on voluntary acceptance. The ILO does not have the power of national legislation where it can enforce the majority will of the conference reflected in the conventions, but no international body - with the exception of UN Security Council - has these enforcement powers (Addo 1999:12 and Mehmet et al. 1999:77-81). The UDHR and ILO are thus effective within their limits; the UN and ILO have defined core labour standards, obtained international acceptance of these definitions, moved ahead reporting and analysis systems and mobilised state action through publishing findings (Mehmet et al. 1999:77 and OECD 1996:15).

### **The World Trade Organisation.**

The WTO was established in 1995 as part of the Uruguay Round of GATT and is the widest ranging multilateral trade agreement ever negotiated (Griesgraber and Gunter 1997:xvi, Korten 1995:174 and Wallach and Sforza 2000:13). At its heart, are agreements dealing with the rules of trade between nations, signed and ratified by the bulk of the world's trading nations (<http://www.wto.org/>, 17 December 2002).

The WTO was intended to have a legal personality equivalent to that of the UN and BWIs and has a legally identified mandate, to eliminate barriers to trade and judicial power to ensure the efficient function of the market (Dunkley 2000:74, Korten 1995:8,174 and Wallach and Sforza 2000:6,21). Amongst its preamble, the WTO Agreement declares its purpose to raise standards of living, ensure full employment and steadily growing real income, expand production and trade in goods and services and address each country's respective needs of economic development (Dunkley 2000:74).

In 1995, the WTO introduced a new dimension to the international regulation of TNCs in its harmonisation of trade standards. The WTO sets provisions on health, safety and labour protection so that any nation's law or standard that exceeds WTO accepted

standards can be challenged, making WTO standards into international standards (Korten 1995:174 and Wallach and Sforza 2000:13-18). Hence, the WTO has down-regulated the accepted minimum standards in labour and health and abolished other standards altogether (Richter 2001:12). As Wallach and Sforza (2000) state, “no democratically achieved health, food safety or environmental law at the WTO has survived the attack. All have been declared barriers to trade” (Wallach and Sforza 2000:22).

The rights of workers are now ignored except to the extent that government policies promoting worker rights are considered barriers to trade and subject to attacks under WTO rules. Thus, core labour standards are now far more favourable to commercial freedom than in the restraint of it (Addo 1999:12). Furthermore, trade related investment measures (TRIMs) within WTO<sup>46</sup> have encouraged the utilisation of EPZs, where sweatshop labour conditions are promoted, and countermeasures by governments to ensure labour rights protection, are forbidden (Wallach and Sforza 2000:59).

The WTO also erodes the authority and jurisdiction of nation states by challenging national laws and institutions deemed impediments to market access. The WTO does this by prohibiting countries from treating physically similar products differently based on how they were made, preventing countries from signalling messages about human rights abuses (Wallach and Sforza 2000:18). Furthermore, during recent years, the BWIs and WTO have issued directive requests to members from developing world countries for the removal of balance of payments safeguard measures (Dunkley 2000:220-224). Developing countries have deregulated and opened up their economies under BWI and WTO prescriptions and these countries have seen a sharp decline in economic growth. Meanwhile, the world’s largest corporations have generated record earnings (Wallach and Sforza 2000:18).

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<sup>46</sup> The Agreement on Trade-Related Investment Measures (TRIMs) is one of the multilateral agreements on trade in goods, which prohibits trade related investment measures, such as local content requirements that are inconsistent with the basic provisions of GATT (<http://www.wto.org>, 23 April 2003).

The greatest controversy surrounding the WTO lies in its dispute resolution mechanism, which contains the strongest binding dispute and enforcement procedures of any international agreement now in force (Dunkley 2000:217 and Wallach and Sforza 2000:21). Unlike other UN agencies, the WTO can enforce standards and decisions with major sanctions (Richter 2001:12). If a nation's law is deemed in violation of the WTO, the offending government must adopt WTO recommendations and change its law within 60 days or pay continued fines<sup>47</sup>(Korten 1995:174-76 and Wallach and Sforza 2000:7). BWIs and trade regulation are meant to be overseen by the UN and incorporate UN covenants. Since every member of the WTO is also a member of the UN, UN charter obligations should override all others. Yet, WTO agreements rarely take into account the work of the UN and WTO powers appear to outrank and contradict the UDHR and the UN's poverty alleviation focus (Griesgraber and Gunter 1997:22, Starr 2000:vii and Suzuki and Dressel 2002:72).

Thus, in practicality, the WTO is the world's most powerful institution after the UN Security Council (Richter 2001:13 and Schoenberger 2000:233). In addition, the WTO is controlling an increasing amount of the world with decisions made by a small number of individuals and corporations, creating an elite global parliament (Starr 2000:24 and Wallach and Sforza 2000:6). Wallach and Sforza (2000) also comment that due process and citizen participation are virtually absent within WTO processes, with no outside or independent appeal available. The WTO has been criticised for its excessive involvement with TNCs in decision-making processes (Wallach and Sforza 2000:22).

The WTO has regulated labour standards through its harsh free trade and enforcement regime where applying core labour conditions is seen as a trade barrier. Thus, it can be stated that the WTO has not contributed to reducing global poverty within developing

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<sup>47</sup> Under the WTO system, the incentives to seek retaliation are strong as any member country can challenge any law of another member country, which it believes deprives it of expected benefits from trade markets (Dunkley 2000:220-221 and Korten 1995:174). WTO tribunals have almost always sided with the challenging country and opportunities are thus created to threaten weaker countries in to creating economic environments suitable for corporate purposes. Developing countries often do not have the resources to defend themselves against the WTO and many simply capitulate to corporate threats and amend laws before they reach the WTO. This has had a chilling

countries and that the promised gains of the WTO have not materialised, especially when income inequalities between and within countries have increased since WTO implementation (Roy 1999:121 and Wallach and Sforza 2000:14-16,55-56). Because minimum wages and labour conditions - such as wages above the poverty line and health and safety provision - no longer exist, developing country workers now face additional burdens in their attempts to move away from poverty. Thus, the combined philosophies of the BWIs and WTO have worked to push back the developing world to the colonial era with an unjust international division of labour (Griesgraber and Gunter 1997:24).

Though the WTO has worked to undermine core labour standards, it has been suggested that the WTO be used to promote core labour rights through a social labour clause based upon ILO conventions (Manning 1998:133, OECD 1996:169-170 and *The Economist* 1998:25). Mehmet et al. (1999) believes that there are two key organisations vital to the global labour market regulation - the ILO and WTO. There is a drive to make the ILO more effective through linkages to the WTO, but this lacks co-ordination and willingness from both bodies (Mehmet et al. 1999:70-82 and Ross 1997:45). The WTO provides a means of enforcement that permits imposition of economic costs sufficient to have a deterrent effect in the violation of core labour rights. However, the WTO and International Chamber of Commerce have gone on record saying that they oppose a social clause as this would mean "an expanded regulatory role for the WTO" and would expose the trading system to strain and risk from increased protectionism (Mehmet et al. 1999:81,199 and Schoenberger 2000:233). Alternatively, it has been argued that labour standards should remain the domain of the ILO. This approach was begrudgingly supported by some at the December 1996 WTO meeting (Manning 1998:133 and *The Economist* 1998:25).

In summary, a set of fundamental international labour standards and rights exist which comprise the legal minimum for corporations on labour conditions - the UDHR and ILO Fundamental Principles and Rights at Work (Houck and Williams 1996:103-4 and

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effect on a nation's inclination to introduce new human rights or safety laws, to avoid future WTO challenges

OECD 1999:57). These supersede national laws and variations in definitions of CSR and ethics (Mehmet et al. 1999:191). However, friction exists between these international organisations over core labour rights, as the WTO's down-regulation of labour standards in practicality, supersedes UN and ILO mandates.

### **3.6.3. Civil Society.**

Key aspects of the new corporate regulatory mechanism – civil society – including non-government organisations (NGOs), trade unions and citizens, are now discussed.

As governments have withdrawn from their previous regulatory role over recent decades, a phenomenon has occurred in the increasing role and power of NGOs (Boli and Thomas 1999, Roddick 2000:6, Schwartz and Gibb 1999:135-7,50). Corporate accountability to the public is still necessary and NGOs are effectively filling a regulatory vacuum in working to limit and influence corporations (Addo 1999:4 and Roddick 2000:16). NGOs historically focussed on influencing national government policies but now are involved in the business and CSR sectors in activities such as advocacy, mobilising the public and working directly with corporations (in policy development and drafting and monitoring COCs) (Schwartz and Gibb 1999:135-330).

A variety of interest groups - NGOs, religious organisations, trade unions and citizens' movements - have formed collectives across geographic boundaries and are working collaboratively to hold TNCs accountable (Klein 2001:444, Roddick 2000:159-198 and Ross 1997:41). Worker solidarity strategies have been instrumental in achieving democratic reforms, but 70 years of labour law has been patchily enforced and union power has declined in recent years. A revitalised labour movement has been created as workers protect themselves through organising and joining with social justice NGOs (Estes 1999:62-63, Mehmet et al. 1999:85-6 and Ross 1997:9,15).

This resistance movement started taking shape in the mid-nineties through the vehicle of NGO facilitated awareness raising campaigns. Through these campaigns, the public

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(Wallach and Sforza 2000:17-22).

has become increasingly well informed, active and articulate on complex labour rights issues (Klein 2001:428). Ordinary people are of pivotal importance in corporate monitoring activities as a motivated, educated electorate can push for any number of issues (Roddick 2000:16 and Schoenberger 2000:242).

Labour justice campaigns incorporate web campaigns, activism, resistance, selective buying, sabotage, demonstrations, teach-ins, popular education, counter summits, boycotts and lobbying politicians and corporations (Klein 2001:442-4, Roddick 2000:17,159-198, and Suzuki and Dressel 2002:77-79). Campaign strategy commences with NGOs floating an issue within the public arena. Subsequently, utilising strong public response, a coalition of citizens, government and international organisations is formed (Schwartz and Gibb 1999:135-7). Specific brand based campaigns target individual corporations in order to educate the public well on a specific issues and use shame to influence corporations to act more responsibly (Klein 2001:426). For example, Nike has been targeted in campaigns because of its role as an industry leader (this is discussed in Chapter V).

Anti-sweatshop campaigns have elicited a huge and emotive public response from the public (OECD 1999:14). Public protest and negative public opinion have then been used as leverage with TNCs as consumers have shown that they will shop selectively around these campaigns, opening a window of vulnerability within TNCs (Dunkley 2000:121 and Roddick 2000:17). Scandals and consumer boycott campaigns, though largely symbolic, can tarnish brand names and shape consumer attitudes (Schoenberger 2000:241 and Schwartz and Gibb 1999:9). Millions of dollars are invested in brand status and corporate image, and corporations are vulnerable to stigma and the volatility of changes in brand perception (Dunkley 2000:121, Klein 2001:424 and Roddick 2000:17).

As citizens have become mobilised en masse, corporations have virtually no choice but to change their behaviour to win back public support, brand status and sales, and to avoid the embarrassment resulting from human rights violations (Klein 2001:424,



Schoenberger 2000:241 and Ross 1997:25). Corporations have taken citizens and their consumer purchasing power seriously and this has affected corporate behaviour where international and national regulation have failed (Klein 2001:425 and Ross 1997:27).

Persuading TNCs to improve their behaviour has been an uphill battle but there is evidence that TNCs do not adopt proactive social policies without some form of pressure (Addo 1999:273-4). International campaigns have been the most effective tool for activists in influencing corporate behaviour and have created new international mechanisms to hold corporate power in check and drive public policy to protect workers<sup>48</sup> (Richter 2001:7, Ross 1997:47 and Schoenberger 2000:242).

### **3.7. Internal Regulation.**

#### **3.7.1. Market Forces.**

Opposition to regulation of TNCs under the influence of Thatcher and Reagan in the 1980s, contended that international trade and investment need to be market driven as interventionist policies reduce global welfare (Richter 2001:9-10). The neo-liberal consensus and many corporations further stated that labour conditions of contract workers were not a CSR and outlined that market forces effectively regulate the economy and labour conditions (Estes 1996:55, Houck and Williams 1996:101 and Mehmet et al. 1999:81).

Others state that the market is not the appropriate mechanism to regulate labour or social conditions. The OECD (1996) doubts market forces in isolation will improve

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<sup>48</sup> There are two key parallels to the twenty-first century debate over sweatshop conditions in developing countries – twentieth century slavery in North America and the nineteenth century sweatshop labour conditions of the English industrial revolution. In both situations, labour conditions became significant issues for the public at large and through public intervention, sweatshop and slavery conditions were eventually abolished. During 1783-1807, the monarchy, church, government and public opinion supported the slave trade. With the revolt of American colonies and subsequent change in trade patterns, attitudes began to change. The slave trade was eventually outlawed successfully in 1807 and by 1827, people were afraid to speak in support of the slave trade (Schwartz and Gibb 1999:13-14).

Today, the garment and textile industries are a showcase of labour abuses, reminiscent of the English sweatshops at the turn of the century. Then, public concern was inflamed over revelations about labour exploitation. Eventually sweatshop labour was seen as unacceptable and labour rights were protected in law (Ross 1997:10).

labour standards and that exploited labour may be grounds for an interventionist fair trade policy (Dunkley 2000:121 and OECD 1996:14). Furthermore, markets and corporations are significantly controlled from within corporations as managers hold the majority of power (Estes 1996:55). Thus, market forces are not neutral and corporations require additional and external supervision.

### **3.72. Corporate Self-regulation.**

Many in business reason that if CSR or core labour standards must be measured, businesses should be able to self-regulate (New Zealand Business Roundtable 2001:xi and Schoenberger 2000:232).

Corporations have declared that external regulation places a financial burden on business in administration and compliance costs and reduced productivity, and that business should not be called upon to meet the demands and expectations that are the role of governments (Mehmet et al. 1999:112 and Schoenberger 2000:232). Additionally, corporations state that they are already regulated internally through their board of directors and management and this is seen as adequate, cost effective and beneficial for corporations and employees (Estes 1996:64).

Yet, corporate self-regulation leaves corporations in an unchallenged position of power and contract workers vulnerable. Corporations are often only challenged to modify their behaviours in response to external social pressure, rather than internal monitoring (Addo 1999:11, Roddick 2000:22 and Wilson 2000:12). Additionally, corporations do report regularly and comprehensively to shareholders but no one has direct or significant control over senior management. Moreover, shareholder reporting does not count benefits and costs to other stakeholders affected by corporations (Estes 1996:4-52 and Korten 1995:99).

Furthermore, corporate self-regulation does not address the wider issues of sweatshop labour, global inequities and enforcement of core labour conditions. Because the conduct of TNCs is a product of the broader global economic system, the elimination of

the inequities within the free market and globalisation, requires the entire corporate and global systems to be reshaped to create a more compassionate role for business (Klein 2001:421 and Schoenberger 2000:23).

Schoenberger (2000) states that there are practical limits to what external regulation can achieve when the world does not agree on a multilateral structure governing the behaviour of TNCs. Without common values and rights, TNCs are left to their own policy on human rights management (Schoenberger 2000:234).

### **Voluntary Codes of Conduct.**

In response to the anti-sweatshop movement, there is a growing business trend to make public statements of CSR in the form of voluntary COCs (Addo 1999:276). The purpose of these codes is to demonstrate consistency of corporate behaviour, trustworthiness and maintain reputation (Addo 1999:108).

Some codes apply to particular companies, for example, the Nike COC (see Appendix 3 – Nike COC). There have also been efforts to harmonise codes across industries. Increasingly, major consumer product firms are engaging with NGOs in the development of multi-company, industry-wide or multi-sectoral COCs on labour and environmental practices. These include the FairWear Campaign's Homeworkers' Code of Practice<sup>49</sup> and the Fair Labor Association's (FLA) Social Accountability 8000 (SA8000)<sup>50</sup> - a US global verification standard for auditing and certifying corporate responsibility (<http://www.maquilasolidarity.org/>, 30 April 2003).

The merit of COCs is debatable as existing codes are diverse and there is little background literature on their effectiveness (OECD 1999:32). The movement towards COCs has been seen as significant in that corporations have acknowledged a degree of

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<sup>49</sup> This code is unique in addressing the specific problems of homeworkers and in its strong provisions requiring companies to disclose detailed information on contractors, sub-contractors and the use of homework (<http://www.maquilasolidarity.org/>, 30 April 2003).

responsibility for labour conditions and facilitated some reform in areas such as health and safety in the workplace. Conversely, as corporations stopped denying the existence of abuses at their sites of production, “they began drafting statements of principles, codes of ethics, memorandums of understanding and other non-legally-binding documents of good intention, espousing the highest standards of business ethics, non-discrimination and rule of law” (Klein 2001:430). Yet, these codes have no legal status, are unenforceable and unlike union contracts, are not drafted in consultation with factory managers based on the needs of the workers. COCs are usually written by public relations managers with the purpose, to appease not reform (Klein 2001:430 and Mehmet et al. 1999:206).

Many argue that it is difficult to see how codes can be beneficial for employees when most are written in English and are not translated or given to employees. Moreover, the right to bargain is excluded from the process and within the COCs, and references to independent or external monitoring and living wages are usually omitted (Klein 2001:430,441, Mehmet et al. 1999:206 and Schoenberger 2000:234). In addition, internationally recognised labour standards are not usually included within codes. In fact, only one third of existing codes include international standards such as ILO and human rights (Conaghan et al. 2002:471-487 and OECD 1999:61-62).

In summary, COCs play an important role but must be legally binding and include employee participation, independent monitoring and enforcement measures (Mehmet et al. 1999:205, OECD 1999:18,22-23,63 and Ross 1997:44). The OECD recommends joint implementation working with NGO partners, unions and most importantly, workers (OECD 1999:63).

Developing countries and civil action groups continue to demand a strong international regulatory regime to hold corporations accountable regardless of their country of operation (Richter 2001:8). Tougher actions need to be taken by the international

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<sup>50</sup> SA8000 standards are based on ILO and UN conventions and the Universal Declaration on Human Rights Its objective is to bring consistency to labour rights standards in various codes and in procedures for "social auditing" (<http://www.maquilasolidarity.org/>, 30 April 2003)

community, and by nation states, regarding labour standards in third world countries. However, the mechanisms by which such action should be taken are less clear (Manning 1998:133).

### **3.8. Corporate Social Responsibility.**

CSR is an additional influence on corporate behaviour. The rationale for CSR lies in ethics, development ideals and human rights and has developed in many countries as a response to the intolerable circumstances associated with early industrialisation. Today, working people continue to demand CSR and social justice as millions of workers are exposed to unsafe conditions, exploitation and intimidation (Mehmet et al. 1999:85-6).

There is much debate about whether TNCs should have responsibilities towards sub-contracted employees, and if so, in which form CSR should take (Higgins 1997:2). There are many views that state that TNCs have a significant obligation to employees. The ethics first states that firms have a moral obligation to improve their social environment, beyond duties to shareholders and those legally mandated, and that CSR is central to development, poverty alleviation and human rights (Boatright 1999:330,338, Higgins 1997:7, Houck and Williams 1996:x, Schoenberger 2000:24-30 and Wilson 2000:3). Schwartz and Gibb (1999) state that organisations can benefit themselves and others in the long term by identifying and acting on opportunities to improve the societies in which they operate (Schwartz and Gibb 1999:xii). In addition, Higgins (1997) states that business has extensive resources that can be used in solving social problems and CSR provides corporations with a good public image (Higgins 1997:74-80).

Conversely, Milton Friedman (1962) states “the social responsibility of business is to increase profits” (in Addo 1999:49). This free market view states that moral or social constraints are inappropriate in business, that CSR is not central for business or a global economy and that business should not be involved in social issues, as it has no

experience in that area (Higgins 1997:84, Houck and Williams 1996:ix,17 and New Zealand Business Roundtable 2001:iv-xiii). CSR is also said to be inappropriate in areas of the developing world, such as in Asia, where cultural values exist that are antithetical to the universal concepts of human and labour rights and democracy (Mehmet et al. 1999:170-1).

However, there is nothing ethical about being unemployed or living in poverty, over a poorly paid job. With increasing competition for FDI, it is better to offer citizens low paying work, than no work. In countries such as Viet Nam, extensive informal work opportunities exist and there are limited other work options. Prostitution is often seen as a legitimate career option. Thus, low paid but regular factory work is a sound alternative. For example, in 1998, the total poverty line<sup>51</sup> indicated that 37 per cent of Vietnamese people were living in poverty (Haughton in UNDP 2001:12). The Vietnamese Government (2002) further states that in order to alleviate poverty, the development of human resources through job creation is necessary (Government of Viet Nam 2002:45).

Thus, CSR can be a confusing concept, encompassing a range of moral or ethical views, cultural variations, issues and expectations, with no agreed universal definition (Addo 1999:19, Houck and Williams 1996:17-28 and Parker 1998:1). Consequently, it is difficult to incorporate CSR in to corporate decision-making and even more difficult to regulate (Addo 1999:175). As there has been little consensus on CSR requirements towards labour conditions, it is instead useful to focus on core labour standards and rights as opposed to CSR.

### **3.8.1. Corporate Social Responsibility and the Corporate Charter.**

The history of US corporations and their charters are significant, as CSR, once legally prescribed and regulated, has been systemically eroded over centuries. US corporations were chartered by monarchs to embody the political power and interests of society and to control early industrial enterprises (Estes 1996:23 and Richter 2001:6-7). The crown

granted power and set rights and objectives for corporations to achieve a public purpose without permanently expanding the government bureaucracy. Charters were also subject to revocation when the state was able to assume the function or when the corporation overstepped its franchise (Estes 1996:2-25 and McMichael 2000:53).

From their creation until well into the 1800s, corporations were viewed as fairly benign servants of the public good as corporations were not created to maximise profit to shareholders. Investors were allowed a return as an inducement to fund the corporation but this was secondary to the corporation's real purpose – public return benefits. Inevitably corporate charters were extended to other types of enterprises such as manufacturing that were less concerned with the public interest (Estes 1996:2-25).

The start of a great period of struggle between US corporations and civil society began in the last third of the nineteenth century and with the civil war. Corporations made huge profits from procurement contracts and took advantage of the disorder and corruption of the times through bribery of government officials. Corporations continued to gain power and had the laws governing their creation amended. State charters and corporate profits could no longer be revoked or restricted, and only the courts could restrain corporate economic activity. In hundreds of cases, judges granted corporations minor legal victories, conceding rights and unprecedented privileges (Lasn and Morrow 1999).

In 1886, the Supreme Court ruled that corporations were 'natural persons' under the US constitution, allowing corporations protection through a bill of rights. This ruling overturned the concept that a corporation's right to make a profit depended on it serving the public interest. Corporations were no longer held to a standard of public service and a profit making commitment to shareholders became the central corporate goal (Estes 1996:23-27, Mitchell 2001:55 and Richter 2001:6-7).

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<sup>51</sup> The total poverty line measures the cost of buying enough food to provide 2,100 calories and also makes a provision for non-food items (Haughton in UNDP 2001:12).

Moreover, in the 1980s, US President Ronald Reagan, worked to create a global economy more responsive to US corporations. Consequently, US corporations now have increasing amounts of political support and legal rights, and no longer claim to serve the public interest in their pursuit of profit (Estes 1996:25 and Korten 1995 63-4). Consequently, the ILO has noted that during the last two decades, there has been a general increase in the precarious nature of employment and reduction of workers' protection (Conaghan, Fischl and Klare 2002:75-76).

Attempts to introduce internationally binding regulation on TNCs - particularly through the UN<sup>52</sup>- have not created consistent binding laws or standards (Addo 1999:274 and Richter 2001:8). In 1964, the UNCTAD was formed to promote an international agenda and structure more responsive to newly independent states (Griesgraber and Gunter 1997:3, Madeley 1999:162 and Richter 2001:8). UNCTAD was supposed to help countries improve systems and procedures for trade expansion. Conversely, it now has a different mandate emphasising the 'positive contributions' of TNCs (Madeley 1999:162).

In the 1970s, there was intense debate in the UN on the need for a corporate regulatory regime. The UN Commission on TNCs (UNCTC) was set up to monitor and report on TNC activities, to strengthen capacity of developing countries in dealing with TNCs and to draft proposals for activities with TNCs. In 1975, UNCTC negotiated a COC for TNCs. However, the neo-liberalist<sup>53</sup> consensus formed forceful opposition to such binding industry regulation and by the mid 1980s, the COC had been sidelined (Richter 2001:8-10 and Ross 1997:46).

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<sup>52</sup> The OECD and ILO also have attempted internationally binding regulation (Addo 1999:274 and Richter 2001:8).

<sup>53</sup> The neo-liberal credo of liberalism, de-regulation and privatisation in development circles is known as the Washington Consensus (Richter 2001:10). The phrase's originator, John Williamson, states: "Audiences the world over seem to believe that this signifies a set of neo-liberal policies that have been imposed on hapless countries by the Washington-based international financial institutions and have led them to crisis and misery" (Williamson 2003 on <http://www.cid.harvard.edu/cidtrade/issues/washington.html>, 15 May 2003).



In the early 1990s, the impetus for industry regulation shifted from the UN to the business and NGO communities. In 1990, another UN COC was drafted but by 1992, this halted due to pressures from western governments and TNCs. At the end of the 1990s, there were again calls from within the UN for universal standards governing corporate conduct. However, the WTO entered the debate and deregulated and down-regulated existing internationally agreed standards in the name of free trade. Today, the UN is still assessing impacts of TNCs and its Commission for Human Rights has made little progress (Addo 1999:24,274 and Richter 2001:8-10).

### **3.9. Conclusion.**

To summarise, I have discussed the key factors, which determine corporate behaviour and labour conditions in developing countries and demonstrated how corporate behaviours are explicitly linked to their internal and external environments.

Internal environmental factors that influence corporate behaviour and labour conditions in developing countries include corporate goals and ethics and organisational culture. There are many variations in corporate goals, ethics and cultures, but ultimately, corporations are directly responsible for their decision-making and corporate behaviours. For example, decisions to utilise EPZs and sub-contracted production.

External environmental factors that influence corporate behaviours and labour conditions in developing countries include national and international competition, government policy, international economic regimes, foreign policy agendas, international institutions and agreements, core labour standards and their regulation and civil society activism. Thus, a wide range of global, political and economic factors have contributed to an environment of deregulation, liberalised economies and ruthless competition in free trade, predominantly with a developed world (particularly, US) focus. Overall, these factors have worked to create environments that are beneficial for corporations and detrimental for labour conditions in developing countries.

By contrast, core labour standards and their regulation are an attempt to control corporate behaviour. Core labour standards and rights are determined and accepted in international law, through the UDHR and ILO. However, regulation and enforcement of these core labour standards are significant challenges, due to the present global, economic and political environments and resourcing constraints.

Of major importance is the WTO, which has significant powers to prescribe labour standards and an ideology that protects TNCs rather than workers. The WTO has down regulated labour rights and it is difficult for other UN agencies to compete with its decision-making because of the WTO's disproportionate amount of power

As existing regulatory mechanisms fail to protect the rights of TNC workers in the developing world, civil society – NGOs, citizens and organised labour – has become an alternative and significant force to ensure core labour standards within TNC contract factories. NGOs, through campaigns and broad-based activism, have been able to influence corporations where no other agencies have. Currently, civil society is perhaps the strongest and only independent corporate regulatory mechanism.

CSR also influences corporate behaviour. The rationale for CSR towards labour conditions lies in development ideals, ethics and human rights. There is much debate over whether TNCs should have responsibilities towards sub-contracted employees and if so what form these should take. US corporations historically were legally obligated to adhere to CSR through corporate charters.

Thus, there are many influences on corporate behaviour. There is significant input from TNCs in the creation of the current international environment, as corporate interests dominate current economic conditions. All-powerful super-corporations have been created that can act in any way they see fit to maximise profit, whilst simultaneously removing labour protections for workers in developing countries.

Yet ultimately, we need to change how we regulate corporations and explore other avenues to forward CSR and labour rights. Furthermore, we also need to reshape our global economic system and development models to become more socially responsible, especially when economic activity is globally linked.

In this chapter, I have demonstrated how corporate behaviour affecting labour conditions in developing countries is determined. In Chapter IV, I will commence my case study by focusing specifically on Viet Nam, providing a context to the Chapter V discussion of labour conditions experienced by Nike contract workers in Viet Nam.

**CHAPTER IV:**  
**CASE STUDY – VIET NAM,**  
**SOCIO-ECONOMIC DEVELOPMENT AND**  
**THE GARMENT INDUSTRY**

*“The achievements in reducing poverty in Viet Nam have been impressive, by any standard. Poverty incidence fell from well over 70 per cent in the mid-1980s to around 58 per cent in 1993 and further to an estimated 37 per cent in 1998” (National Centre for Social Sciences and Humanities 2001:34).*

The previous chapters have outlined current corporate behaviours and their determinants, in respect to labour conditions in developing countries. The arguments and conclusions within these chapters have highlighted variation and complexity within the low cost labour debate. This case study aims to provide more detail to the discussion by outlining a specific country and TNC operating there.

My case study focuses on the labour conditions experienced by Nike contract workers in Viet Nam. In this chapter, I provide background on Vietnamese economic and social development and the garment industry, to provide a context for the following chapter’s discussion of the labour conditions specific to Nike workers in Viet Nam.

I discuss these issues by firstly, providing a brief history of Viet Nam’s economic and social development and outlining the importance of FDI and the garment industry within the Vietnamese economy. I then discuss labour conditions and law within Viet Nam’s garment industry, and conclude by summarising the complexities inherent in the low cost labour debate within Viet Nam.

Literature on the Vietnamese garment industry is not prevalent or easy to locate. I use materials supplied by the Vietnamese Department of Labour and UNDP as my primary

literature sources. Owing to these data constraints, this analysis can only provide an approximate picture.

#### **4.1. Background – Viet Nam.**

Located in Indochina, the Socialist Republic of Viet Nam covers 331,700 square kilometres and in 2000, recorded 78.1 million inhabitants (Nouel 1998:1 and UNDP 2002:164). Viet Nam is a developing country with a complex history of colonisation and international and civil wars, which have shaped its present levels of social and economic development (Tucker 1999:1).

China ruled over Viet Nam for over a thousand years, beginning in 111BC with China finally expelled in AD938 (Curry and Nguyen 1997:12-13, Hiebert 1993:9 and Tucker 1999:1). This was followed by a long effort to preserve independence and unity against the Portuguese, Dutch, French and Americans (Tucker 1999:1).

The French arrived in the 1850s, plundered Viet Nam's human and commercial resources and divided the country into north, south and central Viet Nam. World War II brought the Japanese to Viet Nam until 1945 (Curry and Nguyen 1997:13, Hiebert 1993:9 and Tucker 1999:39). During this period, Ho Chi Minh rose to power and in 1945, declared independence and the establishment of the democratic republic. Severe tension continued between France and Viet Nam, leading to armed conflict in 1946. France was defeated and withdrew from Viet Nam after signing the Geneva Agreements in 1954, leaving the country divided into two at the 17<sup>th</sup> parallel (Curry and Nguyen 1997:13, Nouel 1998:2 and Tucker 1999:44-45).

In 1954, Viet Nam became the focus of the cold war struggle between communism and capitalism. The North lived under an austere Stalinist regime while the South was heavily influenced by the West, especially the US (Hiebert 1993:10). Many anti-communists fled to the South to escape repression by the Northern regime and in 1954,

North and South Viet Nam entered into conflict with the involvement of the US.<sup>54</sup> In 1965, US sent official combat troops to support the newly designated Republic of Viet Nam, south of the dividing line, while Russia and China came to the aid of the north. This war ended in 1975 (Curry and Nguyen 1997:14).

On 2 July 1976, unified Viet Nam became the Socialist Republic of Viet Nam (Nouel 1998:2). However, the staggering effects of destruction caused by the thirty-year war were exacerbated by further wars with Cambodia in 1978 and China in 1979 (Curry and Nguyen 1997:15 and Lockhart 1991:8).

#### **4.2. Economic Reforms - Doi Moi.**

Viet Nam has emerged positively out of the significant socio-economic and political crises over recent decades (Nouel 1998:1). Heavily damaged by the war, Viet Nam was a country with low development levels. Before 1975, Viet Nam's development path focused on achieving independence, peace and stability. After unification and during 1976-79, Viet Nam's focus shifted to the unification and integration of the country and economy in accordance with central planning principles and human development goals. Viet Nam also tied its economic future to the Soviet Union (Anh 1994:1,3, Kahle, Boush and Phelps 2000:43-4 and NCSSH 2001:17,27).

By the early 1980s, weaknesses became apparent in the central planning model as economic growth stagnated and inflation rose rapidly. People had limited opportunities for meaningful jobs and decent incomes and there were chronic shortages in basic consumer goods. The situation was exacerbated by the drying up of aid from the former Soviet Union (NCSSH 2001:27).

From 1980-86, the State implemented some market-oriented reforms in order to orient the country towards trade liberalisation (Anh 1994:3). In 1986, the Sixth Party Congress officially endorsed the Doi Moi (renewal) programme, adopting a

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<sup>54</sup> The US feared the domino effect, that Southeast Asian countries would fall to the communists, one by one (Curry

comprehensive economic reform package designed “to build a wealthy nation, a powerful country and to establish an equitable and civilized society” (NCSSH 2001:28). Doi Moi was implemented predominantly by the State and co-operatives with government performing a strong steering function (Anh 1994:3 and Wolff 1999:1).

The major components of Doi Moi included the transition from central planning to a market economy with a socialist orientation and an open-door policy to facilitate Viet Nam’s integration into the regional and global communities<sup>55</sup> (Kahle et al. 2000:43, Ministry of Labour 1998:7 and NCSSH 2001:iii,28). Viet Nam’s integration into the international arena opened Viet Nam to foreign investment and reinforced development co-operation (Nouel 1998:1-2).

#### **4.3. Socio-Economic Development.**

In the last two decades, Viet Nam has undergone significant economic transformation and entered a period of rapid economic growth, achieving outstanding results compared to many other low-income countries (Mai 2001:88). The macro-economic reforms created a conducive business environment for free market economic activities, contributing significantly to economic growth (Anh 1994:65). During 1993 to 1998, Viet Nam saw GDP rise by 8.9 per cent annually and substantial improvement in social and economic indicators, such as increased average incomes. Unemployment also reduced from 3.4 per cent of the labour force in 1993 to 1.6 per cent by 1998 (UNDP 2001:9-29,152-153). The economic boom particularly helped the poor, largely because of its effects on the labour market. Job opportunities and standards of living increased almost everywhere (Ministry of Labour 1998:8 and UNDP 2001:152).

Furthermore, since Doi Moi, poverty almost halved from more than 70 per cent in the mid-eighties to less than 37 per cent in recent years. Life expectancy has also increased

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and Nguyen 1997:14).

to 68 years and adult literacy has improved to 93 per cent (NCSSH 2001:27). Education and health indicators have additionally improved, while malnutrition levels have reduced (UNDP 2001:9,29). The following tables reflect Viet Nam's strong improvements in human development by index and country ranking (NCSSH 2001:28).

**Table 4.1: Viet Nam's Human Development Index (HDI) Over Time.**

<b>Human Development Report</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
(Reference year)	(1992)	(1993)	(1994)	(1995)	(1997)	(1998)	(1999)
Life expectancy at birth (years)	65.2	65.5	66.0	66.4	67.4	67.8	67.8
Adult literacy (%)	91.9	92.5	93	93.7	91.9	92.9	93.1
Combined enrolment Rate (%)	49	51	55	55	62	63	67
Real GDP per capita (Purchasing power parity (PPP) US\$)	1,010	1,040	1,208	1,236	1,630	1,689	1,860
Human Development Index (value)	0.611	0.618	0.634	0.639	0.666	0.671	0.682
Human Development Index (rank)	120	121	121	122	110	108	101

Source: UNDP Human Development Report 2001 (NCSSH 2001:30).

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<sup>55</sup> Doi Moi incorporated industrialisation, modernisation, widespread price, exchange and interest rate reform and the cutting loose of state enterprises from fiscal subsidies (Leipziger 1992:iii, Ministry of Labour 1998:7 and NCSSH 2001:iii).



**Table 4.2: Human Development Index Ranking for Selected Countries (1999, out of 162 countries).**

Country	HDI rank	Life Expectancy (years)	Adult Literacy Rate (%)	Combined Enrolment Ratio (%)	Real GDP Per capita (PPP\$)	HDI
Japan	9	80.8	99.0	82	24,898	0.928
Hong Kong	24	79.4	93.3	63	22,909	0.880
Singapore	26	77.4	92.1	75	20,767	0.876
Malaysia	56	72.2	87.0	66	8,209	0.774
Thailand	66	69.9	95.3	60	6,132	0.757
Philippines	70	69.0	95.1	82	3,805	0.749
China	87	70.2	83.5	73	3,617	0.718
<b>Viet Nam</b>	<b>101</b>	<b>67.8</b>	<b>93.1</b>	<b>67</b>	<b>1,860</b>	<b>0.682</b>
Indonesia	102	65.8	86.3	65	2,857	0.677
India	115	62.9	56.5	56	2,248	0.571
Myanmar	118	56.0	84.4	55	1,027	0.551
Cambodia	121	56.4	68.2	62	1,361	0.541
Lao PDR	131	53.1	47.3	58	1,471	0.476

Source: UNDP Human Development Report 2001 (NCSSH 2001:30).

Yet, Viet Nam still faces significant development challenges. Despite its recent economic growth, Viet Nam is still poor with one of the lowest rates of per capita income in the world (estimated to be \$US 318 in 1996). In 1996, 22 per cent of the labour force were unemployed; the labour force comprises nearly 30 million people, representing approximately 45 per cent of the population. Wages are also low, 23 times lower than in Thailand and 30 times lower than in South Korea (NCSSH 2001:47 and Nouel 1998:1).

Moreover, there has been no clear link between economic growth and positive income change for many Vietnamese, as in 1988, a third of the population were still living in

poverty. In addition, substantial inequalities have resulted as living standards have only risen for some and the gap between the rich and the poor is further widening. People in rural areas and ethnic minorities are particularly disadvantaged (Ministry of Labour 1998:6, NCSSH 2001:22,47 and UNDP 2001:29-76). Current malnutrition rates in Viet Nam still compare unfavourably with comparably poor countries elsewhere. Hence, Viet Nam's struggle for social justice and development still exists (Ministry of Labour 1998:9 and UNDP 2001:44-76).

In addition, economic development and the business environment have been unstable, making business unpredictable and this is further exacerbated by current regional and world economies (Ministry of Labour 1998:9 and UNDP 2001:44-45). The World Bank states that Vietnam's development has been positive but the global context has worsened dramatically and Viet Nam's short-term outlook is worse than a year ago (World Bank 2002c:I).

Most significantly, the general efficiency and competitiveness of the economy is low and much development is required to meet domestic and international requirements. According to the World Economic Forum Global Economy Report in 2000, Viet Nam ranked 53<sup>rd</sup> in competitiveness out of the 59 surveyed countries (Trang 2003:6). Vietnam's economy is considered weak and unstable due to its inflexible financial and accounting systems, poor technical and information facilities, an abundant but unskilled labour force and absence of healthy competition, due to the prevalence of monopolies (Ha 2002:7-18).

The consensus is that Viet Nam's future development depends on a continued focus on neo-liberalist economic policy, such as maintaining high growth rates and rapid implementation of World Bank structural reform policy. The World Bank states that trade reforms, promotion of exports and opening up the private sector, will increase employment and all incomes over the medium-term (World Bank 2002c:vi-1). These reforms must be implemented alongside improvements in efficiency and competitiveness of individual enterprises and the economy (Trang 2003:6).

The Vietnamese government similarly expects that globalisation and neo-liberal adjustment<sup>56</sup> will ensure future development and these are the major development objectives of national policy makers. Yet, this view risks neglecting people as the targets of development as Viet Nam's development goals additionally aim to eradicate poverty and achieve better livelihoods, health, education and standards of living for all (NCSSH 2001:2-44 and World Bank 2002c:2). The Government acknowledges this complexity in that global integration may not guarantee achievement of goals, such as poverty eradication (NCSSH 2001:iii-3). Therefore, the challenge now is to ensure that Viet Nam's growth translates in to reductions in poverty, especially for those most in need (UNDP 2001:29-30).

#### **4.4. Foreign Direct Investment in Viet Nam.**

FDI is defined as "the long-term investment made by non-residents of a host country though either creation or acquisition of capital assets in the host country" (Mai 2001:7). The Doi Moi process opened up the economy to FDI in 1987, as a key vehicle towards success and economic growth. Viet Nam has one of Asia's most liberal foreign investment codes, where foreign companies are allowed 100 per cent ownership or up to 99 per cent equity in joint ventures (Hiebert 1993:100-101).

FDI provides many benefits to developing countries. These benefits are boosted by the concentration of TNCs, bringing with them, physical and human capital and technology, factors important for overcoming under-development (Madeley 1999:2-3). Foreign enterprises employ significant numbers from the local work force, resulting in sustained development of human capital. Technology transfer also occurs via spillovers from the use of local suppliers and the demonstration effect of using new technology and management techniques on domestic firms. FDI additionally contributes to a country's export-oriented industrialisation, facilitating an increase in knowledge of international markets (Hill 1998:11 and WTO 2002:228).

FDI contributes directly and indirectly to poverty alleviation by promoting economic growth, generating employment and increasing incomes. FDI has contributed to Viet Nam's economic growth success through directly providing employment to 100,000 workers. Without FDI, general growth in 1996, would have been approximately 6.5 per cent, instead of reaching 9.5 per cent (Ministry of Labour 1998:17). Foreign investment continues to be a valuable source of capital for Vietnamese economic development (Trang 2003:39).

FDI is mainly used by TNCs from both developed and developing countries to achieve their objectives in global profit maximisation and the diversification of risks for long term stability. There are many specific benefits for investing in Viet Nam such as locational advantages (utilising Viet Nam's cheap labour), ownership advantages (TNCs are given special advantages as foreign investors in Viet Nam, for example, a profit tax exemption applies for the first two profit making years),<sup>57</sup> and internalisation factors (TNCs receive advantages due to policies designed to protect Viet Nam's domestic market and infant industries, for example, tariffs)<sup>58</sup> (Mai 2001:102-106 and Nouel 1998:62). Thus, in the current global economic system, Viet Nam is an ideal location for TNCs to invest in terms of its low labour and production costs.

From 1990, FDI flows into Viet Nam were high (Duc 2002:5 and Mai 2001:102). Overall contributions from foreign investment to the Vietnamese economy were \$US 2.35 billion in 2002 and nearly \$US 20.74 billion as a total since 1988 (Trang 2003:39). After 1996, FDI flows declined significantly due to Viet Nam's reduced international competitiveness. The Ministry of Planning and Investment stated that "investors complain that the cost of investment in Vietnam is much higher than in other regional

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<sup>56</sup> The Government has declared its intentions to further accelerate reforms, especially in the field of banking, finance, infrastructure and SOEs (Nouel 1998:1).

<sup>57</sup> Tax breaks are provided for FDI projects that generate exports, employment, hard-currency earnings or technology transfers, and for projects that utilise Viet Nam's natural resources (Hiebert 1993:100-101).

<sup>58</sup> Benefits from moving production from the US to Viet Nam include: market access for goods and services, lowered tariffs, full trading rights for US firms and WTO protection for US intellectual property. US investment receives discriminatory treatment and protection with local content and export performance requirements eliminated and much investment licensing phased out (<http://www.internationalreports.net/asiapacific/vietnam/2002/>, 1 January 2003).

countries” (Duc 2002:5-6 and Mai 2001:102). In spite of the government’s encouraging policies towards industrialisation and modernisation, foreign investors today remain hesitant (Trang 2003:39).

#### **4.5. Foreign Direct Investment and the Vietnamese Garment Industry.**

Viet Nam’s general policy environment has enabled success in the garment industry over recent decades.<sup>59</sup> Additionally, in capacity and export earnings, the garment industry has established itself as a successful and important vehicle for Doi Moi and the country’s industrial development,<sup>60</sup> as much of FDI in to Viet Nam is directed into the garment industry (Hill 1998:1-2). The foreign investment sector dominates approximately 25 to 29 per cent of the garment industry (Ministry of Labour 1998:9 and MPDF 2000:9,50).

Before 1992, the Vietnamese garment industry struggled but between 1992 and 1997, exports increased dramatically. Garment exports grew from \$US 90 million in 1990 to \$US 1.35 billion in 1997. The industry now generates about 20 per cent of Viet Nam’s total merchandise exports, second only to oil, and 41 per cent of manufactured exports (Hill 1998:3 and MPDF 2000:9,11).

Precise data on the numbers of foreign invested garment enterprises<sup>61</sup> is not available, but there are an estimated 250 private manufacturers and 90 state owned garment enterprises, with a total of over 600 garment factories in Viet Nam. The garment industry has played an important part in employment generation, employing approximately half a million workers (80 per cent are women) or approximately one-fifth of the country’s manufacturing workforce (Hill 1998:3 and MPDF 2000:9-11,50).

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<sup>59</sup> This success has been generated in an intensely competitive export environment with limited export quota entitlement and throughout this period, without access to the US market (Hill 1998:3).

<sup>60</sup> The textile and garment industry has been present in Viet Nam for at least a century. Although exports commenced in the 1970s, the major phase of export oriented development dates from the early 1990s, following Doi Moi reforms (Hill 1998:14).

<sup>61</sup> I could not locate the names of TNCs/foreign investors in the Vietnamese garment industry.

Viet Nam's competitiveness is the main drawcard for FDI in the garment industry. Industry competitiveness and success relies upon the availability of female workers with good work abilities and low labour costs, at less than US 25 per cents per hour (among the lowest in the region), low investment costs, the use of regional operators, encouragement to export in terms of market access given by the country's trading partners, and efficient transport, importation of raw materials and export processing (MPDF 2000:11).

Though Viet Nam's labour costs are among the lowest in Asia, Viet Nam must develop significantly in order to maintain its competitiveness. Vietnamese commodities are usually 10 to 15 per cent more expensive than those produced by the Association of Southeast Asia Nations (ASEAN) countries and 20 per cent more expensive than those produced in China (Ha 2002:1). One reason for this is that local materials used by the garment industry are only 25 to 30 per cent of the total product, with the remaining materials imported at high prices, increasing total production costs. In contrast, China - Viet Nam's biggest competitor - almost completely sources its raw materials domestically, with significantly lower costs (Duc 2002:14). In addition, Vietnamese labour productivity is also low, estimated at 50 per cent of similar Chinese operations and this erodes Viet Nam's low labour cost advantage (MPDF 2000:12).

**Table 4.3: Advantage of Vietnamese Garment Industry in Labour Costs.**

<b>Countries and Territories</b>	<b>Average pay for one employee</b>
Viet Nam	US\$ 0.18/hour
Thailand	US\$ 0.87/hour
Indonesia	US\$ 0.23/hour
Malaysia	US \$ 0.95/hour
Taiwan	US \$ 5.00/hour
China	US \$ 0.34/hour

Source: Saigon Economic Times, No. 20, 2001 (Files on Vietnam 2002:21).

**Table 4.4: Rating of Competitiveness of Countries/Economies.**

No.	Countries/Economies	2000	1999	1998	1997
1	The United States	1	2	3	3
2	Singapore	2	1	1	1
3	Japan	21	14	12	14
4	Thailand	31	31	21	18
5	China	41	32	28	29
6	The Philippines	37	33	33	34
7	Malaysia	25	16	17	9
8	<b>Viet Nam</b>	<b>53</b>	<b>48</b>	<b>39</b>	<b>49</b>

Source: World Economic Forum (Files on Vietnam 2002:21).

Moreover, Vietnamese garment enterprises are often passive in seeking clients, designing production plans, fixing prices, marketing and sales, which also contribute to overall reduced efficiency. Most Vietnamese enterprises do not have direct contacts with foreign customers and between 70 to 80 per cent of export income is earned from sub-contracts for overseas customers.<sup>62</sup> Garment enterprises acting mainly as sub-contractors for foreign manufacturers, have not increased their capability in fashion design and this affects their competitiveness and ability to adapt to changes (Duc 2002:14-5).

There are concerns about how the garment industry will fare in the future, as new manufacturers have established factories in Viet Nam and orders have reduced within existing garment enterprises. The current Asian crisis highlights the importance of reform, as regional producers have become more competitive, due to devalued currencies and smaller private Vietnamese manufacturers are floundering and closing down (Hill 1998:3 and MPDF 2000:9).

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<sup>62</sup> Many Vietnamese enterprises have been unable to set up information exchange networks, nation-wide product distribution systems or trade representative offices in the Southeast Asian region and the rest of the world (Duc 2002:14).

Domestic obstacles hold back Viet Nam's enterprises and constrain their ability to compete in international markets. Hence, the challenge for Viet Nam's garment industry is to increase overall efficiency by developing a broad-based export drive, shifting to higher quality products with a greater product range, while also improving administrative and regulatory mechanisms. For example, it is imperative that Viet Nam's exchange rate policy is internationally competitive and that the financial system and government policies are efficient and predictable (Hill 1998:3-12).

From this analysis of Viet Nam's competitiveness in the garment industry, it is apparent that unskilled wage rates are not an obstacle to Viet Nam's international competition in textiles and garments (Hill 1998:22). Thus, it is clear that there is no need to reduce wages further and there is room to increase wages, if factors affecting competitiveness are addressed.

#### **4.6. Labour Conditions in the Vietnamese Garment Industry.**

There is considerable diversity within garment industry enterprises and in the labour conditions experienced by their workers (Hill 1998:6). The main factor determining garment factory conditions appears to be enterprise ownership, whether foreign invested (FDI), private or state owned enterprises (SOEs).<sup>63</sup>

Gender issues are also significant within the garment industry, as the majority of workers in the industry are women. In FDI garment enterprises, 82.34 per cent of workers are women and the textile, leather and garment industries are the greatest employers of female workers in Viet Nam, employing 76.22 per cent of female workers (Ministry of Labour 1998:12-91).

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<sup>63</sup> SOEs include both centrally and locally run state enterprises. Private enterprises are non-state enterprises, including co-operatives and individual private enterprises. Foreign capital enterprises include enterprises with 100 per cent foreign invested capital and joint ventures of state or private enterprises with foreign capital (Ministry of Labour 1998:81-2).



Key characteristics of labour conditions within the Vietnamese garment industry – wages and hours/days of work, health and safety and human and labour rights - are now discussed.

#### **4.6.1. Wages and Hours/Days of Work.**

Accurate wage data is not available for Viet Nam but it is acknowledged that the country has one of the lowest real wage levels in Asia. Approximate pre-crisis wage data suggests that unskilled wage rates in the garment industry are at least 20 per cent below those in other low income exporters such as China, India, and Indonesia and about one-third of Thailand's wages (Hill 1998:22).

The Ministry of Labour states that FDI garment enterprises pay higher wages than state or private industries. However, the Ministry also indicates that FDI workers are often expected to work longer hours than private or SOE workers. Thus, in real terms, FDI workers may have lower hourly wage rates than SOE workers (Thanh 2001:50).

Wage levels for females are lower than wages of male workers in the Vietnamese garment industry. The main reason given for this is that female workers have lower levels of education, skill and productivity than their male counterparts, as 84.5 per cent of the female labour force is unskilled. Monthly income for female unskilled labour in the garment industry is 447,000 Vietnamese Dong (VND) in state enterprises, 396,000 VND in private enterprises and 820,000 VND in FDI enterprises. Overall, women's wages are 92.5 per cent of those for men doing similar work (Ministry of Labour 1998:14,97).

The economic boom led to a lengthening of hours worked per year and among all enterprises, working overtime and extra shifts are common (UNDP 2001:153). Female workers in the garment industry work more days per year compared to other industries, with an average 285 day work-year, compared to workers in the printing and energy industries, which have 262 and 264 day work-years. Moreover, female workers in FDI garment factories work more days than other enterprises and industries, working 300

days per year as compared to private enterprise employees who work 266 days per year (Ministry of Labour 1998:80).

Most enterprises pay workers in accordance with the number of finished products or from assigned volumes of work. Garment industry work is considered high in labour intensity and there are reports of constantly increasing production targets. Expected labour intensity is especially high in FDI enterprises. For example, employees are expected to work continually, without breaks (Ministry of Labour 1998:12 and Thanh 2001:57).

#### **4.6.2. Health and Safety.**

Vietnamese garment plants are not efficiently run due to inadequate workspaces, inappropriate equipment and inefficient production planning and control (MPDF 2000:12). In addition, the Ministry of Labour (1998) states that working conditions in garment enterprises are poor, with the best of such conditions being offered by enterprises with FDI. However, in recent years, due to lax monitoring and management, many FDI enterprises have reduced their investment in factory health and safety, resulting in increased health and safety violations (Ministry of Labour 1998:54-55).

In general, most garment factories have heavily polluted and harmful environments. Only 1.13 per cent of factories have fresh air, 34 per cent are over-crowded, 27 per cent have leaking buildings and 21 per cent are overly humid. Moreover, 100 per cent of garment factories exceed permissible norms in temperature, 63 per cent exceed permissible dust levels and 68 per cent exceed permissible noise levels. In FDI factories, there are high numbers of garment workers using machinery and tools without workplace health, safety and labour standards being met. In addition, workers are often using inflammable products and toxic substances, with outdated technology and inadequate safety systems (Ministry of Labour 1998:100-106).

Labour conditions for female workers in the garment industry are worse in many respects than for male workers, as more women work in manual labour positions and in environments with low health and safety conditions and Labour Code violations. Consequently, women are showing deteriorating levels of health and occupational diseases such as hearing loss, respiratory illnesses and lead poisoning (Ministry of Labour 1998:14-22).

The cultural, professional and technical standards, responsibility and awareness of the garment enterprise directors are generally low. This is a significant cause of poor labour conditions in garment factories (Ministry of Labour 1998:55).

#### **4.6.3. Human and Labour Rights.**

The biggest challenges for women in many enterprises is that their labour contracts run counter to provisions in Vietnamese law. For example, employers demand that workers not marry or bear children for a certain period. Many women are unaware of this situation and accept illegal work contracts.<sup>64</sup> In addition, employment contracts are often terminated before contract expiration, illegal in Vietnamese labour law (Thanh 2001:48-50).

There are also many reports of physical and verbal abuse, harassment and lack of freedom of association in the Vietnamese garment industry (Vietnam Labor Watch 1997). Furthermore, in EPZ's, treatment of female workers is often worse than the treatment of general garment workers (Thanh 2001:48-50).

Women are most vulnerable within the garment industry because they are often young, relatively uneducated, with little experience in dealing with authority and almost no knowledge of their rights (Singrayer 1997). Furthermore, the binding of female workers to garment factories through family obligation is still common, and thus, changing jobs is more difficult for women (Ministry of Labour 1998:14).

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<sup>64</sup> More than 90 per cent of women stated that they would like to learn more about labour law and their basic rights (Thanh 2001:21).

In summary, economic growth has reduced unemployment in Viet Nam but the main problem now is ensuring that the quality of jobs improves, bringing higher wages and better working conditions (UNDP 2001:152-153).

#### **4.7. Vietnamese Labour Law.**

Viet Nam has a strong base of labour law to protect its workers. The Vietnamese Labour Code of 1994 regulates labour relations between employees and employers. Foreign employers and employees are also required to comply with Vietnamese law, unless coverage is provided by an international treaty to which Viet Nam and the respective country of the employer or employee are parties (Nouel 1998:67 and Thanh 2001:13). The following is a summary of key points from the Labour Code.

Labour contracts must be in writing and the Labour Ministry provides standard labour contracts in compliance with Vietnamese law (Nouel 1998:68-69).

Working hours for employees may not exceed 8 hours per day and 48 hours per week. Employees less than 18 years of age and those employed in particularly strenuous, dangerous or polluted work sites may have their hours reduced. Overtime must be jointly agreed upon by employers and employees, may not exceed 30 per cent of the regular daily hours and must be no more than 20 hours per week. Employees are entitled to 8 days of paid public holidays. Overtime on normal working days must be paid at a rate of at least 150 per cent of the standard rate. For days off, holidays or night work, the employee is entitled to compensation at a rate of at least 200 per cent of the standard rate (Nouel 1998:69-70).

Labour, safety and health standards are clearly specified in the Labour Code, especially relating to female workers. For example, Article 113 states “The employer shall refrain from deploying female labor in heavy, hazardous work contacting with noxious and

harmful chemical products” (Thanh 2001:14). In addition, social insurance must cover illness, pregnancy, retirement, death and accidents (Thanh 2001:17-18).

Vietnamese labour law has always been consistent in equal pay for men and women (Thanh 2001:13). The Labour Ministry establishes minimum salaries and these are periodically revised and vary based on regional differences and ownership of factories. State owned factories have a minimum wage of \$US 13 per month but private and foreign companies must honour minimum wages in the \$US 35 to \$US 45 per month range depending on their location. Foreign companies must pay a wage specified in US dollars although workers are paid in VND (Madeley 1999:2-3).

**Table 4.5: Minimum Salaries by Region.**

Area/City	Salary
Hanoi and Ho Chi Minh City	45 US\$ /month
2 <sup>nd</sup> category cites	40 US \$ /month
Other provinces	35 US \$/month
Underprivileged regions	30 US \$/month

Source: Salaries in Viet Nam (Nouel 1998:70).

In addition, Viet Nam has been a member of the ILO from 1980 to 1985 and since 1992, with 15 ratified conventions in force.<sup>65</sup> Yet, the ILO states that in Viet Nam, there is still much difficulty in ensuring that companies meet these demands (<http://webfusion.ilo.org/>, 1 November 2002).

In general, wages and living conditions are greatly affected by policy and laws, labour law in particular. The Vietnamese Labour Code clearly states minimum labour law but enterprises are generally, not adhering to the Code. Regulation and enforcement of the

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15 Conventions, ratified and in force include Minimum Age (Industry) Convention, Weekly Rest (Industry) Convention, Worst Forms of Child labour Convention, Occupational Safety and Health Convention, Labour Inspection Convention and Equal Remuneration Convention (<http://webfusion.ilo.org/>, 1 November 2002).

Code also requires attention as issues within garment factories could be alleviated with comprehensive regulation and enforcement of the Labour Code (Thanh 2001:78-83).

The Government seeks to gradually improve enterprise conditions and implementation of labour law. Yet, conflicting goals exist in the protection of the interests of labour rights and the interests of employers, especially FDI, as the government seeks to encourage ongoing investment in Viet Nam (Thanh 2001:78-83). This is a major challenge for the workers in the Vietnamese garment industry.

#### **4.8. Conclusion.**

To summarise, Viet Nam has emerged positively out of a difficult and complex socio-economic period. The Doi Moi process has restructured the economy and integrated Viet Nam into the global market and these reforms have created many positive changes, such as increased economic growth and reduced unemployment and poverty levels.

FDI has contributed to a range of impacts and opportunities for the Vietnamese. Its benefits include significant economic growth and investment in human resources and infrastructure. The Vietnamese government trades special terms and incentives to attract foreign TNCs and Viet Nam's garment industry attracts a significant proportion of FDI.

There is a range of diversity in labour conditions provided to garment workers. Foreign TNCs often provide superior labour conditions in the local context. Yet, there is considerable debate as to whether foreign TNCs are providing good jobs, due to low wages and health and safety standards, long hours of work and human rights abuses.

Viet Nam's labour costs are among the lowest in the region, but the overall competitiveness of enterprises is poor due to domestic factors, such as poor administration and high imported material costs. Viet Nam faces dilemmas over the

future of its garment industry, as FDI has been reducing and in the compromises made within the wage levels, to attract FDI.

To retain the interest of foreign investors and sustain FDI levels, Viet Nam must remain competitive. Labour costs are only one aspect of production competitiveness and Viet Nam's labour costs are already among the lowest in the region and globally. Price competitiveness also relies on utilising domestic resources, rather than expensive imports in the production process and eliminating cumbersome bureaucracy and administrative for investors.

FDI enterprises often offer better wages and conditions to Vietnamese garment workers, when compared to SOE and private firms. Hence, FDI firms can be role models to other industries and enterprises. Still, this situation is complex as FDI enterprises have a substantial way to go to match labour conditions outlined in the Vietnamese Labour Code and core labour rights.

In conclusion, FDI has provided many positive benefits for Viet Nam. However, Viet Nam will need to focus on its overall competitiveness in manufacturing efficiency, to retain the interest of TNC investors. Foreign investors must take responsibility for meeting clearly outlined local labour laws and the Vietnamese government must also take responsibility for regulation and enforcement of its Labour Code. This would ensure good jobs for garment workers, positive socio-economic development within Viet Nam and good conditions for foreign investors.

In this chapter's case study, I have provided a background on Viet Nam, its garment industry and labour conditions. In the following chapter, I continue the case study with a focus specifically on the TNC, Nike, and its contribution to labour conditions in its Vietnamese contract factories.

**CHAPTER V:**  
**CASE STUDY - LABOUR CONDITIONS**  
**EXPERIENCED BY NIKE CONTRACT WORKERS**  
**IN VIET NAM**

*"Strong hearts, active minds, spirited bodies. Nike is fueled by the vitality of the people who work here. As a company and as individuals, we ardently contribute to the communities where we live, work and play throughout the world," (<http://www.nike.com/nikebiz/>, 22 May 2003).*

This chapter aims to provide an analysis of the Nike corporation and its role in determining labour conditions in its sub-contracted factories in Viet Nam. I do this by discussing Nike and its operations in Viet Nam. I then outline the controversies surrounding Nike's corporate behaviour and discuss these in respect to Nike's obligations under core labour rights and CSR. I give specific examples of the labour conditions experienced by Vietnamese Nike contract workers. Lastly, I make conclusions about Nike's role in determining labour conditions and contributing to development within Viet Nam.

Gaining data on Nike factories and labour conditions in Viet Nam has been difficult. Nike declined to provide any data on its Vietnamese operations and efforts to visit sub-contractor factories in Viet Nam were declined. I canvassed a range of labour organisations in Viet Nam and was able to interview Phan Thi Thanh, Director, Ministry of Labour, Invalids and Social Affairs (Ministry of Labour), in Hanoi. Hence, my main literature sources are UNDP and the Ministry of Labour in Viet Nam. Other information comes via Nike's Website and research published on the Internet by anti-sweatshop organisations. Owing to these data constraints, this analysis can only provide an approximate picture.



### **5.1. Nike Incorporated.**

In 1964, Nike was founded by Philip Knight, its present CEO. Nike is based on Knight's research, indicating that low priced and well-merchandised sports shoes from Japan could replace Germany's dominance of the US athletic footwear industry (BBC 1996 and <http://www.nike.com/nikebiz/>, 30 December 2002). Nike's mission statement is "to bring inspiration and innovation to every athlete in the world" (<http://www.nike.com/nikebiz/>, 30 June 2002).

Nike is seen as a market leader through Knight's revolutionary vision in the way sports shoes were designed, manufactured and marketed. Nike's success lies in its product innovation - Nike invests significantly on research with 350 new designs each year, its manufacturing processes - utilising cheap labour, and Nike's aggressive image creation and marketing - Nike spends significantly on marketing, especially employing athletes with attitude to endorse Nike's exclusive image of cool (BBC 1996, Ballinger and Olsson 1997:55-57 and LaFeber 2002:58).

Nike's marketing campaigns are extremely important in that they focus on brand consciousness, image creation and exclusiveness. In the saturated sportswear industry, logos are often the only differentiating factor between products and Nike plays on peer pressure and elitism, aggressively targeting children and teenagers (BBC 1996 and Klein 2001:21-22). The BBC (1996) reports that even though branded as sports shoes, 70 per cent of Nike consumers do not use the shoes for what they are intended, instead, wearing them as a fashion statement (BBC 1996).

Nike is the biggest spender on marketing and promotion and pioneered the business philosophy of no limits spending on branding (Klein 2001:1970). In 1996, the company spent \$US 676 million on marketing, advertising and promotions and in 1997, its budget was estimated to be \$US 978 million. Besides many sports teams, the company has more than 100 athletes under contract. For example, Andre Agassi was reported to be paid \$US 100 million for ten years and Michael Jordan was reported to

be paid \$US 20 million a year (Clean Clothes Campaign 1998:7, Herbert 1996 and <http://www.caa.org.au/campaigns/nike>. 11 March 2002).

Nike's success relies on outsourcing its production to developing countries, predominantly in Asia, to take advantage of their low labour costs. Nike has 8,000 management design sales and promotion staff but does not own any factories and factory employees are hired by independent sub-contractors (Klein 2001:198, Korten 1995:11 and Madeley 1999:106). Nike contracts with 900 factories across 50 countries, which employ an estimated 700,000 contract workers (Turnbull 2002). Nike's model of marketing and outsourcing has inspired many by its success and many more traditionally run – vertically integrated - companies have imitated Nike<sup>66</sup> (Klein 2001:198).

There is no doubt that Nike has done very well from its revolutionary business ideas. Since its inception, Nike has continued to be the fastest growing athletic company with significant coverage and market share of the sport shoe market (BBC 1996). Nike remains the number one sports shoe producer in the world, followed by Reebok and Adidas. In 1998, Nike produced 90 million pairs of sports shoes and revenues increased 42 per cent, from \$US 6.5 billion to \$US 9.2 billion (Clean Clothes Campaign 1998:8). In September 2002, Nike's revenue rose 7 per cent for the quarter to \$US 2.8 billion from \$US 2.61 billion a year earlier<sup>67</sup> (Reuters 2002).

## **5.2. Nike in Viet Nam.**

Nike moved to Viet Nam to utilise its low wage costs (Herbert 1996 and Ross 1997:26). Nike's Viet Nam manager, Chris Helzer, stated that shifting its contracting work to Viet Nam lessened Nike's reliance on China and Indonesia ([http://www.businessweek.com/1999/99\\_33/b3642193.htm](http://www.businessweek.com/1999/99_33/b3642193.htm), 1 January 2003).

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<sup>66</sup> Knight has long been a hero of the business schools for this strategy (Klein 2001:366).

<sup>67</sup> Knight is one of the ten richest people in the US (BBC 1996), and in 2002, Forbes ranked Knight as the 45<sup>th</sup> wealthiest person in the world (<http://portland.bizjournals.com/>, 2 January 2003).

In 1996, Nike commenced its contracting operations in Viet Nam, with up to twelve footwear and garment factories located in the rural areas surrounding Ho Chi Minh City (HCMC). Since then, Nike and other major sports companies have expanded production in Viet Nam (Dow Jones International News 2001, [http://www.businessweek.com/1999/99\\_33/b3642193.htm](http://www.businessweek.com/1999/99_33/b3642193.htm), 1 January 2003 and <http://www.rpi.edu/>, 25 February 2002).

Nike's factories in Viet Nam are run by Taiwanese and South Korean sub-contractors and employ approximately 46,000 to 55,000 Vietnamese workers ([http://www.businessweek.com/1999/99\\_33/b3642193.htm](http://www.businessweek.com/1999/99_33/b3642193.htm), 1 January 2003 and <http://www.rpi.edu/>, 25 February 2002). In 2001, Nike produced 22 million pairs of shoes and \$US 400 million of shoes and garments in Viet Nam. This comprises approximately 10 to 12 percent of Nike's worldwide shoe production (<http://www.worldroom.com/pages/wrnhcm/coverstory.phtml>, 1 January 2002). Significantly, Nike and its sub-contractors constitute Viet Nam's largest private employer and Nike products constitute over 5 per cent of Viet Nam's total exports (Dow Jones International News 2001 and [http://www.businessweek.com/1999/99\\_33/b3642193.htm](http://www.businessweek.com/1999/99_33/b3642193.htm), 1 January 2003).

### **5.3. Nike and Controversies.**

Though Nike has had significant financial success, the company has also been immersed in controversy since the mid-nineties, when human and labour rights activists began targeting Nike. Nike is considered to be the market leader in the sportswear industry and thus, was selected as the main target<sup>68</sup> of campaigns to highlight labour abuses and exploitation by developed world corporations. It was hoped that Nike could be persuaded to adopt genuine labour reforms and act as a role model in the industry,

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<sup>68</sup> Training shoes have also become a particular target of these campaigns as 99 per cent of their production is from the same countries in Asia (Schwartz and Gibb 1999:52)

placing pressure on other companies to follow suit<sup>69</sup> (Klein 2001:441, Schwartz and Gibb 1999:52 and <http://www.caa.org.au/campaigns/nike/>, 13 December 2002). It is acknowledged however, that the biggest corporations in the sportswear industry - Nike, Reebok, Adidas, Hi-Tech and Puma – undertake similar manufacturing practices (Schwartz and Gibb 1999:52).

Anti-sweatshop campaigns have had a significant impact on the public, Nike and other TNCs. As the campaigns became more pronounced, Nike and other large TNCs were increasingly seen as metaphors for the sweatshop debate and a global economic system gone awry (Herbert 1996 and Klein 2001:441). Nike's behaviour and position on its labour practices has changed over time as a direct result of civil society's responses to its operations in third world countries. Significantly, it is the anti-sweatshop movement - rather than international TNC regulation – that has been successful in leveraging Nike into behaviour change. As the anti-sweatshop protests grew, Nike made several concessions in recognition of accepting responsibility towards sub-contracted workers in developing countries (Schwartz and Gibb 1999:51). (See Appendix 4 – Nike Timeline).

Controversy surrounds Nike over issues such as its constant relocation of manufacturing to different countries, sweatshop wages paid to contract workers - alongside the high salaries paid to sports stars who endorse Nike products, child labour, unsafe working conditions, excessive hours and forced overtime, human rights abuses and Nike's mixed responses to the sweatshop debate (Herbert 1996 and <http://www.peaceworks.missouri.org/>, 1 November 2002).

The following is an analysis of key controversies surrounding Nike, in respect to core labour standards<sup>70</sup> (wages and hours/days of work, human and labour rights and health and safety) and CSR. Examples are given from Nike's Vietnamese garment factories.<sup>71</sup>

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<sup>69</sup> With limited anti-sweatshop campaign resources, labour abuses in Nike factories were already well documented over a number of years.

<sup>70</sup> Core labour standards are prescribed through the UDHR and ILO Declaration on Fundamental Principles and Rights at Work (See Appendices 1 and 2).

## **5.4. Core Labour Standards.**

### **5.4.1. Wages and Hours/Days of Work.**

In the majority of Nike contract factories, full time wages are equal or slightly above the local legal minimum wage (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002). Yet, there are numerous cases of illegal lower wages paid to Nike contract workers, particularly in Viet Nam (Ballinger 1997, Birchill 1999, O'Rourke 1997 and Vietnam Labor Watch 1997). In 2001, Nike was found to be paying an average of 20 cents per hour or \$1.60 per day, below the Viet Nam legal minimum wage of \$US 42 to 45 per month (<http://www.essential.org/monitor/>, 11 March 2002).

There are also many reports of Nike contract employees being forcibly overworked for up to seven days per week. O'Rourke and Vietnam Labor Watch document repeated violations of Vietnamese labour laws on maximum overtime hours and forced overtime particularly, to meet high quotas (O'Rourke 1997 and Vietnam Labor Watch 1997). Vietnamese law allows maximum daily overtime of 4 hours and annual overtime of 200 hours. Yet, Nike workers are often forced to work 500 to 600 hours per year. Moreover, with excessive work hours, even if wages are paid at the legal minimum, hourly rates are very low (Vietnam Labor Watch 1997 and <http://www.nikebiz.com/labor>, 21 March 2002).

In addition, many are critical of Nike's attempts to pay the legal minimum wage, as these are often set below subsistence needs and the poverty line and are not living or sustainable wages.<sup>72</sup> A sustainable living wage enables workers to meet immediate needs, save some money for long term purchases or emergencies and provides some discretionary income<sup>73</sup> (Rosenbaum and Schilling 1997). Living costs in Viet Nam are

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<sup>71</sup>Nike has found itself more vulnerable to criticism in Viet Nam. Unlike China or Indonesia, which together account for 70 per cent of Nike's shoe production, Viet Nam has a vocal immigrant community in North America which stays in touch with developments back home (<http://www.essential.org/monitor/>, 11 March 2002).

<sup>72</sup>The same argument can be used in developed countries. For example, with New Zealand's minimum wage.

<sup>73</sup>UNITE have lobbied for a 'living wage' based on the market value of a basket of consumer goods (Ross 1997:44-46). The question of paying a living wage is a basic one that Nike does not really answer. Activists have repeatedly

certainly cheaper than in developed countries, but in the Vietnamese industrial zones, the legal minimum wage is well below what is needed to meet the basic needs of a small family (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002). For example, the cost of three basic meals is approximately US 2.10 per day and ninety per cent of contract workers receive help from families - in terms of money, food or housing - to make ends meet (Vietnam Labor Watch 1997). Furthermore, Vietnam Labor Watch reports that Nike's factory wages are still the lowest among FDI factories in Viet Nam (<http://www.saigon.com/~nike/>, 25 March 2003).

Many have advocated that Nike should pay its sub-contracted workers more and become a socially responsible company. It is perceived that Nike could easily afford to improve contract wages. For example, Nike could double contract wages without affecting the end price of sport shoes by more than one to two dollars and these wages would vastly improve workers' lives (BBC 1996). In addition, Nike's spending on athlete endorsements demonstrates that Nike prioritises payment of celebrities over satisfactorily paying its contract workers (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

Nike states its contract workers receive a fair wage and Nike is constantly evaluating compensation packages to ensure fair payment. In addition, Nike disputes any common definition or measure of a living wage. Nike states instead, that it has contributed positively to its host countries by providing many thousands of jobs in developing countries as a result of its business (<http://swoosh.custhelp.com/>, 22 May 2003).

Nike adds that Vietnamese citizens are not forced to accept contract work positions. However, this comment neglects the fact that people often choose to work in Nike factories because they have limited alternatives. Most of Nike's contract factories are located in countries marked by extreme poverty, high unemployment and extensive malnutrition (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

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demonstrated the impossibility to live on the wages paid by Nike contracted factories

#### 5.4.2. Health and Safety.

There have been numerous reports of health and safety violations in Nike factories, particularly in Viet Nam. For example, in 1997, the New York Times reported that Vietnamese Nike workers were being exposed to the toxic gas Toluene,<sup>74</sup> at more than one hundred times the Vietnamese legal limit (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002). In the same year, Ernst and Young reported that Nike factory workers near HCMC were exposed to carcinogens that exceeded local legal standards by 177 times and that 7 per cent of employees suffered from respiratory problems. Their report also states that workers were labouring in environments with excessive heat, and noise and air pollution (Greenhouse 1997). Furthermore, O'Rourke visited 50 garment factories in Viet Nam and stated that working conditions in Nike contract factories were well below average (O'Rourke 1997).

Nike has carried out some improvements in the health and safety area. In 1999, O'Rourke and Brown carried out research in the Tai Kwang Vina factory, Viet Nam, which produces shoes exclusively for Nike. The researchers stated that factories appeared to have significantly reduced worker exposure to toxic adhesives and chemicals, had installed exhaust ventilation systems and were training key personnel on occupation health and safety issues (<http://www.globalexchange.org/economy>, 25 February 2002 and <http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

However, significant health and safety issues remain. Workers in some plants continue to face overexposure to hazardous chemicals, heat and noise, in violation of Vietnamese and comparable US laws (<http://www.globalexchange.org/economy>, 25 February 2002). Nike has boasted that its workers manufacture products under superior conditions (Greenhouse 1997). Thus, Nike must establish and maintain an effective and ongoing health and safety management programme (<http://www.globalexchange.org/economy>, 25 February 2002).

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(<http://www.peaceworks.missouri.org/>, 1 November 2002).

<sup>74</sup> Toluene can cause nervous system malfunction and has been linked to an increased chance of miscarriage (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

### 5.4.3. Human and Labour Rights.

Nike's record on human rights has been poor, with numerous reports of child labour, sexual, physical and verbal abuse and forced or compulsory labour in Nike's contract factories. A number of human rights abuses have been documented in Vietnamese Nike contract factories. For example, in 1997, Ernst and Young reported that workers were punished or fined for violating Nike's COC. Yet, 80 per cent of workers had not read or did not understand the COC (O'Rourke 1997 and <http://www.saigon.com/~nike/>, 25 May 2003).

There have been widespread reports of the violation of labour rights such as freedom of association and collective bargaining in Nike contract factories (Bruno 2002). Since 1995, Oxfam has been calling on Nike to ensure its contract workers are freely allowed to form unions (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002). In China, Indonesia and Viet Nam, the three countries where Nike makes the majority of its shoes, workers are denied the basic right to organise independent unions. In all three countries, there is one government-sponsored union and efforts to create independent unions are squashed<sup>75</sup> (<http://www.globalexchange.org/economy>, 22 February 2002).

Nike initially responded that human rights were not their responsibility, but those of the contractors.<sup>76</sup> Nike went on to acknowledge some human rights abuses and Knight promised to make improvements and to implement a company wide programme to ensure workers are treated decently (Noble 2001 and Kahle et al. 2000:47). Yet, Vietnam Labor Watch reports that Nike factories continue to abuse workers and violate their labour rights (<http://www.saigon.com/~nike/>, 26 June 2003).

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<sup>75</sup> Ernst and Young reported that workers' trade unions are being organised by management with union leaders selected and paid by factory management (O'Rourke 1997 and <http://www.saigon.com/~nike/>, 25 May 2003).

<sup>76</sup> Yet, Nike exercises complete control over the production process and has set guidelines for contractors on wages, hours of work, minimum age requirements and health and safety standards (<http://www.peaceworks.missouri.org/>, 1 November 2002). Nike dictates the price per shoe and the cost of operations to its sub-contractors, forcing them to set high quotas for their workers and to pay low wages (<http://www.nikebiz.com/labor>, 21 March 2002 and Herbert 1996).



## **5.5. Corporate Social Responsibility.**

As discussed in Chapter III, the public has increasing expectations of corporate behaviour and CSR from developed world corporations such as Nike. In addition to Nike's obligations to core labour standards, many criticisms of Nike focus on obligations to CSR. These criticisms are now outlined with reference to Nike's operations in Viet Nam.

### **5.5.1. Manufacturing Locations.**

Nike is criticised because it relocates production to new developing countries, when contract workers join unions and receive labour rights and living wages. Critics claim that Nike moves production to wherever wages are lowest and human rights are most repressed. In addition, moving production from country to country puts states in competition with each other to provide the cheapest costs and most reliable supply. This then places pressure on governments to keep minimum wages low and to reduce legal protection for labour rights (<http://www.caa.org.au/campaigns/nike/news/index.html>, 30 December 2002). For example, as workers in Japan and South Korea won the right to organise and wages increased, Nike moved production to Indonesia,<sup>77</sup> China and Viet Nam, countries with repressive governments and very low wages (<http://www.globalexchange.org/economy/>, 13 December 2002 and <http://www.peaceworks.missouri.org/>, 1 November 2002). In 2001, 40 per cent of Nike's shoes were made in China, 31 per cent in Indonesia and 13 per cent each in Thailand and Viet Nam (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

Nike disputes these claims and states that it does not move production in search of the cheapest labour. Nike asserts that it is the only branded athletic shoe company still manufacturing in Taiwan and South Korea. Moreover, in the last three years, Nike has expanded into a number of countries with higher wages such as Italy and the

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<sup>77</sup> In 1996, 38 per cent of Nike's sneakers were made in Indonesia under dictator, Suharto's rule. Then, the government ran the only legal union. After Suharto fell and Indonesia took steps toward democracy, workers have

Philippines. The Philippines has a minimum wage that is twice that of Indonesia, China and Viet Nam. In 1998, Nike products were made in 13 Philippines factories and this has now expanded to 22 factories (<http://swoosh.custhelp.com/>, 22 May 2003).

### **5.5.2. Monitoring and Transparency.**

Nike is criticised for its lack of transparency and independent or external monitoring. Oxfam believes Nike and other TNCs should work with international unions and human rights organisations to establish a system of transparent and independent monitoring. Until they are willing to do this, consumers can not have confidence that Nike goods are made in safe conditions (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

Indeed, Nike has joined forces with unions and human rights NGOs to monitor working conditions in sweatshops overseas<sup>78</sup>(Mehmet et al. 1999:205). Nike additionally commissions consultants to inspect factories and joined the White House initiated apparel industry partnership, dedicated to establishing industry standards regarding the use of foreign labour (Kahle et al. 2000:51). Nike will not however disclose its factory locations, as it looks at this from an intellectual property and competitive advantage perspective (<http://swoosh.custhelp.com/>, 22 May 2003 and <http://www.peaceworks.missouri.org/>, 1 November 2002).

### **5.5.3. Public Relations.**

There has been much criticism over Nike's use of PR to control the anti-sweatshop debate. Nike's initial response to criticism from the sweatshop debate was to deny any knowledge or responsibility for their contract factories. Nike explained that its

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been able to form their own unions. In the process, Indonesia's share of Nike's sports shoe production has fallen to 30 per cent (<http://www.caa.org.au/campaigns/nike/news/index.html>, 30 December 2002).

<sup>78</sup> Nike states that they are now committed to independent monitoring under new Fair Labour Association protocols. Nike's internal compliance staff also visit factories for health and safety inspections (<http://swoosh.custhelp.com/>, 22 May 2003). These initiatives have been criticised as monitoring is still not considered independent. Nike does disclose its entire contract base to the Fair Labour Association (<http://swoosh.custhelp.com/>, 22 May 2003 and <http://www.peaceworks.missouri.org/>, 1 November 2002).

manufacturers were foreign companies, which it merely contracted for the production of finished products (BBC 1996 and Kahle et al. 2000:51).

Today, Nike's public stance is much more sophisticated. Nike no longer refuses to acknowledge labour rights and instead, tries hard to look like a responsible citizen, with a COC and a CSR strategy and team. Nike now insists that sub-contractors meet certain standards and obey local laws (<http://www.peaceworks.missouri.org/>, 1 November 2002 and Kahle et al. 2000:47-51).

Labour rights groups allege that Nike's PR campaign is an effort to muddy the waters and show that Nike is caring. Meanwhile, Nike still continues to minimise and trivialise labour issues, gives conflicting and aggressive statements on labour campaigns and issues (Kahle et al. 2000:47 and <http://www.peaceworks.missouri.org/>, 1 November 2002). Moreover, Nike continues to fund celebrities to promote Nike at very high cost and has spent more on reducing embarrassing attacks than on solving problems in its factories. Since 1997, Nike has spent approximately nine million US dollars per year on 'corporate responsibility' (New York Times 2002).

Nike has taken some responsibility but clearly, Nike could do a lot better to address the concerns of human rights groups, consumers and workers (<http://www.caa.org.au/campaigns/nike>, 11 March 2002). Nike has responded to many of the sweatshop claims but has stopped at meeting all human rights. Nike and others continue to take advantage of the lower labour standards presented to them when the company could easily meet the demands of their critics for improved compensation and conditions for contract workers (Kahle et al. 2000:50-51).

#### **5.5.4. Nike's Code of Conduct.**

Nike's COC encompasses commitments to occupational health and safety, free association and collective bargaining and workplaces free of harassment. Nike also binds its partners to voluntary labour, no child labour, at least the minimum or industry wage, legally mandated benefits and work hours, health and safety in the workplace and

outlines internal and external monitoring requirements (<http://www.nikebiz.com/labor/code.shtml>, 21 March 2002).

Yet, Nike does not always adhere to its COC. In addition, critics point out that the COC still allows Nike to pay less than a living wage, expose workers to prohibited levels of toxic chemicals and crush independent unions (<http://www.peaceworks.missouri.org/>, 1 November 2002).

#### **5.5.5. Economic Development.**

Civil society also expects Nike to develop the economies and communities in which it works. TNCs like Nike can play a positive role in developing countries through provision of stable, long-term and decently paid jobs, which contribute to development. Moreover, when countries are in economic transition, TNCs can support that process by maintaining investment (<http://www.caa.org.au/campaigns/nike/news/index.html>, 30 December 2002).

Many state that Nike has paved the way for economic development and jump-started developing economies (Kahle et al. 2000:51). Nike adds that it is doubtful that any manufacturing brand has built a record of job creation comparable to Nike over the last 30 years. At present there are about 750,000 Nike contract workers involved in manufacturing (<http://swoosh.custhelp.com/>, 22 May 2003).

Nike has contributed to Viet Nam's economic development, through investment in infrastructure, necessary for economic growth. Yet, most Nike factories in Viet Nam are owned by Taiwanese and Korean companies and the factory's share of profits go back to Taiwan and Korea. The only benefit the local economy receives is low wage and short-term jobs (<http://www.caa.org.au/campaigns/nike/>, 13 December 2002).

In summary, there is much criticism of Nike's ethics and CSR and these issues are complex and multidimensional. Some criticisms of Nike have been unfair, but have benefited Nike workers and promoted the principle that corporations do have

responsibilities for the actions of their sub-contractors. Sub-contractors now have a heightened sense of responsibility for providing a good work environment and their presence has had some desirable consequences for Viet Nam (Kahle et al. 2000:43).

### **5.6. Nike, Labour Conditions and Development.**

From this analysis, there are clear patterns in Nike's contribution to labour conditions and development, with Nike contributing both positively and negatively to labour conditions and development in Viet Nam.

Nike's positive contributions lie in the provision of thousands of minimum wage jobs in its contract factories and in the positive spillover effects from FDI. Nike has shown its concern over sweatshop issues, formulated a CSR department and COC, and is steadily addressing contract factory issues such as health and safety, human rights abuses and monitoring. Nike generally seeks to meet local and international law, offers good working conditions in the local context and is seen as a role model for other industries and enterprises.

Nike's negative contributions include factories, which could be labelled sweatshops, with human and labour rights abuses and dangerous health and safety levels. This is coupled with a general avoidance by Nike of consistently meeting core labour standards. Nike's ethics and CSR are not focused towards developing countries or their citizens, but towards consumers in developed countries.

Yet, Nike is accurate in its explanation that it did not invent the world economy but simply figured out how to operate successfully in it (Kahle et al. 2000:51). Nike believes that the anti-Nike movement is really about globalisation. "Nike is one small player in globalisation – the concerns of the people who really care about globalisation is much broader than Nike" (Turnbull 2002). Moreover, its host countries actively court Nike factories as Nike provides employment with positive spillover effects (Kahle et al. 2000:51). Thus, ultimately, it is the global economy, US law and lax corporate

regulation that enable Nike's corporate behaviour. These are valid points, as CSR and labour rights do not sit easily within the current international environment and are predominantly regulated by civil society.

Poverty and underdevelopment in Viet Nam are not solely Nike's responsibility, especially when other TNCs participate in similar sub-contracting practices in the global clothing and footwear industry (<http://www.caa.org.au/campaigns/nike>. 11 March 2002). However, Nike has significant potential for contributing much more positively to Viet Nam's labour conditions and development.

**Box 5.1. Summary of Interview – Labour Conditions Experienced by Nike Contract Workers in Viet Nam.**

**Interview with Phan Thi Thanh, Director, Ministry of Labour, Invalids and Social Affairs (Ministry of Labour), Hanoi, Viet Nam, 21 August 2002.**

I contacted a number of independent researchers, NGOs and government organisations in Viet Nam for interviews on the topic of labour conditions experienced by Nike contract workers in Viet Nam. In August 2002, I was able to interview Phan Thi Thanh (Thanh) in Hanoi. The following information was gained during this interview.

Thanh outlined that prior to 2000, there was some research carried out by the Ministry of Labour on TNCs, such as Nike, in Viet Nam. From 2000-2002, no further research has been carried out.

In 1999, Thanh visited Nike and other FDI garment factories in HCMC's industrial zone. Thanh noted that overall, good working conditions were found there.

However, overworking is common within the garment industry. Thanh found that working hours were too long in the Nike contract factories. For example, Nike contract workers would normally work seven days per week, for up to 12 hours per day.

Up until recently, temperatures in the SOE garment factories were too hot. Thanh noted that in FDI garment enterprises, working conditions were usually better in respect to temperatures.

Social security is not a positive feature in FDI factories. FDI enterprises, such as Nike, do not contribute enough to worker benefits. For example, when employed in Viet Nam, it is normal to have a permanent job, maternity leave, superannuation and a range of benefits. These benefits are provided by SOEs but not by FDI enterprises.

Thanh did not have the current wages levels for Nike factories. There are many government departments in charge of the garment industry. I was advised that the Institute of Salary and Income held salary information but I was not able to get these details from the Institute.

Legal minimum wage levels are set for sectors and regions. In general, SOEs pay 210,000 VND (approximately \$US 13 to 14 per month). FDI enterprises pay perhaps \$35 per month and in cities, \$US 45 or \$50 per month, depending on the region.

Nike's wages are considered satisfactory. However, Nike contract employees work longer hours than SOE workers. Thus, if we compare wages per hour, then, Nike contract wages are considered lower than SOE wages.

The Labour Protection Department carries out monitoring in garment enterprises. If dangerous working conditions are found, the department can force them to stop production and has the authority to enforce their advice through the labour court.

Thanh's major concern about TNC contract factories, such as Nike, is in the maximum working hours and days of work for contract workers. The Labour Code states maximum overtime as 200 hours per year and 4 hours per day. Yet, contract workers sometimes work 8 hours overtime per day. This is especially difficult for female workers who work extra hours at home. Thanh recommended more policy and research in this area towards reducing the maximum legal overtime working hours. Thanh recommends a change in the maximum overtime hours from the present annual amount to a weekly maximum of 10 hours per week.

From the case study of labour conditions of contract workers in Viet Nam, I now summarise Nike's positive and negative contributions to labour conditions and development in Viet Nam.



**Box 5.2. Summary of Nike's Contributions to Labour Conditions and Development in Viet Nam.**

**Nike's Positive Contributions**

- i) Provides thousands of jobs;
- i) Normally pays the legal minimum wage;
- ii) Contributes to human resource development;
- iii) FDI Spillovers in infrastructure and technology transfer;
- iv) Nike acts as a positive role model to other TNCs, enterprises and industries;
- v) Improving health and safety conditions in contract factories;
- vi) Adopting CSR goals and a voluntary COC;
- vii) Steadily progressing towards CSR and core labour rights;
- viii) Labour standards may surpass those in domestic industries;
- ix) Working with NGOs and allowing independent monitoring.

**Nike's Negative Contributions**

- i) Some factories could accurately be labelled sweatshops;
- ii) May not consistently pay legal minimum or living/sustainable wages;
- iii) Long work hours and sometimes compulsory overtime - often working 7 days per week;
- iv) Documented human and labour rights abuses in some factories;
- v) Health and safety standards often low;
- vi) Nike contract factories violate some Vietnamese laws and international core labour standards;
- vii) Low levels of CSR in practice and could easily do a lot better. For example. investing in core labour rights instead of PR;
- viii) At times, does not take the sweatshop debate seriously;
- ix) Lack of external/independent monitoring.

## **5.7. Conclusion.**

In summary, I have discussed Nike, its operations in Viet Nam and the controversies surrounding the corporation, particularly in respect to the labour conditions experienced by contract workers.

Controversies focus on Nike's utilisation of low cost or sweatshop labour in developing countries, such as Viet Nam, to minimise production costs and maximise profit. Many argue that Nike fails to meet its core labour and human rights obligations for its contract workers, who often experience poor health and safety standards, long work hours and violations of human and labour rights. Moreover, Nike earns tremendous profits and pays massive endorsements to celebrities. This adds further insult to minimum wage workers, as Nike clearly has the financial ability to provide improved labour conditions to contract employees. Furthermore, Nike has a CSR team but has not made significant attempts to address labour issues or meet requirements of its own COC.

Conversely, Nike and others argue that conditions in Nike contract factories sometimes exceed those in the domestic sector. Furthermore, Nike contributes significantly to Viet Nam's development through its FDI, with thousands of jobs and spillover benefits. In addition, Nike has gradually changed its focus to CSR and is steadily improving labour conditions for contract workers.

Yet, Nike's CSR responses appear as a reaction to the public's horror and preparedness to alter purchasing patterns based on Nike's perceived lack of ethics, rather than a proactive and compassionate response. Civil society thus, has demonstrated a startling effect in controlling Nike's behaviour.

Nike is correct in their assertions that they are not the only TNC that outsources its production. However, this case study clearly demonstrates that Nike has significant control over wages and conditions of its contract workers. I would thus conclude that

Nike is contributing to positive and negative development in Viet Nam, though offering minimum wage jobs, FDI and by slowly incorporating CSR into its actions, alongside health and safety violations and human and labour rights abuses in its factories.

Nike has tremendous potential to contribute further and significantly to labour conditions and development in Viet Nam. A TNC's ideal contribution to development would be represented by sustainable living wages, respect for international human and labour rights and positive contribution to the host country economy.

## **CHAPTER VI: CONCLUSION**

This thesis has examined the role of TNCs in determining labour conditions, particularly of contract workers, in developing countries and ends with a summary of the five chapters and a conclusion based on issues and themes arising throughout the dissertation.

### **Corporations, Labour Rights, CSR and Development.**

Core labour rights are prescribed and agreed upon through the UDHR and ILO Fundamental Principles and Rights at Work. In addition, the rationale for CSR lies in individual notions of ethics and responsibility, development ideals and human rights. Respect for core labour standards, human rights and CSR, contribute to good development.

Development aims to create self-sufficiency, alleviate poverty and improve standards of living. Using development models as a measure of corporate behaviour, it is apparent that some TNCs contribute more positively to labour conditions and development than others.

TNCs and corporate behaviour determine labour conditions in developing countries. These behaviours include corporate politicising and utilising innovations in technology and production, sub-contracting, EPZs and low cost labour in developing countries.

It is difficult to generalise about contract factory labour conditions in developing countries as a variety of labour conditions exist. However, sweatshop work conditions are prevalent in TNC contract factories in developing countries. For example, contract workers often experience long work hours, low wages and health and safety standards and violations of human and labour rights.

Other TNCs however, do contribute positively to the labour conditions of contract workers, through meeting core labour standards and additionally, providing developmental opportunities for workers, such as education, health benefits and secure jobs.

TNC behaviour additionally creates a range of positive and negative impacts in developing countries. TNCs contribute to healthy host country economies through FDI and its positive spillovers, such as infrastructure, technology and human resource development. Negative impacts include TNC presence and competition in domestic markets, disadvantaging local businesses. TNCs also integrate developing countries into the global economy, increasing expectations and insecurity for those in poverty.

Many TNCs would advocate that it is the global environment, rather than individual corporations, that determine labour conditions in the developing world. There is much truth in this as many external environmental factors influence corporate behaviour and labour conditions in developing countries. External environmental influences include government policy, national and international competition, international economic regimes, foreign policy agendas, international institutions and agreements and core labour standards. Overall, these factors contribute to a global environment, which favours rights of corporations over the labour rights of developing world workers.

In addition, factors internal to TNCs influence corporate behaviour and labour conditions. These internal influences include corporate goals, ethics, cultures and politicising, which all shape corporate decision making and policy. Ultimately, these internal factors are critical in determining corporate behaviours.

Central to the low cost labour/sweatshop debate is the role of civil society in influencing corporate behaviour. Civil society, particularly through NGOs and anti-sweatshop campaigns, has demonstrated its preparedness to lobby TNCs on labour issues. These campaigns are symbolic of society's increasing expectations of fair labour standards for developing country workers.

## **Viet Nam.**

I examined Viet Nam's socio-economic development and its garment industry. Through the Doi Moi process, Viet Nam has emerged positively out of a complex socio-economic period. Doi Moi restructured the Vietnamese economy, opening it up to FDI and its many positive benefits. FDI has been a major factor in Viet Nam's development success, bringing with it, economic growth, hundreds of thousands of jobs and technology, infrastructure and human resource development.

A significant proportion of FDI goes in to Viet Nam's garment industry. Foreign investors are attracted to Viet Nam's garment industry because of its low labour rates. The Vietnamese Government additionally trades special incentives to investors, such as tax breaks and guaranteed low labour costs. However, even with the lowest labour rates in the region, FDI into Viet Nam has recently decreased, due to Viet Nam's low overall efficiency and competitiveness.

Labour conditions vary within the Vietnamese garment industry. Often FDI enterprises have superior labour conditions to domestic enterprises and thus, TNCs can act as role models for other enterprises and industries. Still, within FDI factories, there are many documented cases of violations of core labour rights.

I specifically examined the TNC, Nike, its role in Viet Nam and controversies surrounding the corporation in respect to labour conditions of its contract workers. Controversies focus on Nike's utilisation and exploitation of low cost labour to minimise production costs and maximise profits. In analysis of Nike contract factories in Viet Nam, I found that Nike contract factories usually pay legal minimum wages but workers also experience long hours, poor health and safety standards and violations of core labour rights. Conversely, Nike contributes significantly to Viet Nam through FDI and its spillover effects and directly provides tens of thousands of factory jobs.

There is much debate as to the level of responsibility that Nike should have towards its contract workers. Yet, in response to civil society campaigns, Nike has acknowledged the sweatshop issue and is slowly making changes within its contracting practices. For example, Nike has made some improvements in the health and safety area and formulated a voluntary COC and CSR team. However, many of these corporate responses appear to be PR exercises, as Nike's good statements of intention have not been fully implemented. Significant improvements in Nike's contracting practices are still required.

Overall, through its range of corporate behaviours, Nike contributes positively and negatively to labour conditions and development in Viet Nam. Nike predominantly determines the labour conditions of contract workers in Viet Nam and by implication, Nike holds tremendous power to contribute more positively to labour conditions in contract factories, thereby, ensuring all core labour standards are consistently met.

### **Global Factors.**

Nike is correct in its assertion that they are not the only TNC outsourcing its manufacturing to the third world and that there are many global economic factors, which influence and influence today's corporate behaviours. Ultimately, sweatshops are a symptom of inequities in our broader global economic system and to create effective change, we must address all parts of this system.

In practice, our global economic system does not serve well those in poverty or contribute towards development. Neo-liberalism, economic globalisation, free trade, WTO and the BWIs, instead promote elite and corporate interests. The WTO particularly has significant power to override minimum labour standards through trade regulation and it is difficult for governments and others organisations, such as UN agencies, to compete with WTO decision-making.

Global governance is thus, a significant issue as presently, the US holds a disproportionate amount of self-imposed global power over international politics,

organisations and development. Moreover, TNCs are growing more powerful, with some corporations, holding more power than actual countries. Thus, concentrated global power sits with a few individuals, countries and organisations. The UN was supposed to have this global governance role but in practice, its influence has been consistently eroded. Moreover, developing countries have little say in global decision-making and often, over their own economic systems.

More research and understanding is needed of our complex economic systems, international organisations, corporations and labour conditions in TNC contract factories. In addition, the orientation of the international organisations and global economic system must change, if we are to achieve development as our overriding goal. Thus, we must work towards more socially responsible corporate and global economic systems, catering for those in developing countries and those in poverty.

Ultimately, corporate and labour regulatory mechanisms are failing to protect workers' rights. In order to forward labour conditions and development, we need to change how we regulate corporations and explore other avenues of CSR and labour rights. Ideas such as an international minimum wage and linking the WTO and ILO to regulate and enforce core labour standards, need further research. Whatever the avenue for regulating core labour rights, there must be shared responsibility between TNCs, government and international organisations, to ensure core labour rights for all workers.



**APPENDIX 1**  
**UNIVERSAL DECLARATION**  
**OF HUMAN RIGHTS**

**Preamble**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, **THE GENERAL ASSEMBLY**

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive

measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### **Article 1**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### **Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

#### **Article 3**

Everyone has the right to life, liberty and the security of person.

#### **Article 4**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

#### **Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### **Article 6**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7**

All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10**

Everyone is entitled in full equality to a fair, and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11**

1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

### **Article 13**

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

### **Article 14**

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

### **Article 15**

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

### **Article 16**

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

### **Article 17**

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

**Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20**

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

**Article 21**

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

### **Article 23**

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

### **Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

### **Article 25**

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

### **Article 26**

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious

groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

#### **Article 27**

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

#### **Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

#### **Article 29**

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

#### **Article 30**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

**G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)**

**Adopted on December 10, 1948**

**by the General Assembly of the United Nations (without dissent)**

Source: Retrieved on 25 April 2003 from the World Wide Web:

<http://www.hrweb.org/legal/udhr.html>.



**APPENDIX 2**  
**INTERNATIONAL LABOUR ORGANISATION –**  
**DECLARATION ON FUNDAMENTAL PRINCIPLES**  
**AND RIGHTS AT WORK**

86th Session, Geneva, June 1998

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of Fundamental Principles and Rights at Work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting Fundamental Rights at

Work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the Fundamental Principles and Rights embodied in the Constitution of the Organization and to promote their universal application;

### **The International Labour Conference**

1. Recalls:

(a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;

(b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including, by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

(a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;

(b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of these Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

Source: Retrieved 3 June 2003 from the World Wide Web:

<http://www.ilo.org/>.

## APPENDIX 3

### NIKE CODE OF CONDUCT

Nike Inc. was founded on a handshake.

Implicit in that act was the determination that we would build our business with all of our partners based on trust, teamwork, honesty and mutual respect. We expect all of our business partners to operate on the same principles.

At the core of the NIKE corporate ethic is the belief that we are a company comprised of many different kinds of people, appreciating individual diversity, and dedicated to equal opportunity for each individual.

NIKE designs, manufactures, and markets products for sports and fitness consumers. At every step in that process, we are driven to do not only what is required by law, but what is expected of a leader. We expect our business partners to do the same. NIKE partners with contractors who share our commitment to best practices and continuous improvement in:

1. Management practices that respect the rights of all employees, including the right to free association and collective bargaining
2. Minimizing our impact on the environment
3. Providing a safe and healthy work place
4. Promoting the health and well-being of all employees

Contractors must recognize the dignity of each employee, and the right to a work place free of harassment, abuse or corporal punishment. Decisions on hiring, salary, benefits, advancement, termination or retirement must be based solely on the employee's ability to do the job. There shall be no discrimination based on race, creed, gender, marital or maternity status, religious or political beliefs, age or sexual orientation.

Wherever NIKE operates around the globe we are guided by this Code of Conduct and we bind our contractors to these principles. Contractors must post this Code in all major

workspaces, translated into the language of the employee, and must train employees on their rights and obligations as defined by this Code and applicable local laws.

While these principles establish the spirit of our partnerships, we also bind our partners to specific standards of conduct. The core standards are set forth below.

1. **Forced Labor.** The contractor does not use forced labor in any form -- prison, indentured, bonded or otherwise.

2. **Child Labor.** The contractor does not employ any person below the age of 18 to produce footwear. The contractor does not employ any person below the age of 16 to produce apparel, accessories or equipment. If at the time Nike production begins, the contractor employs people of the legal working age who are at least 15, that employment may continue, but the contractor will not hire any person going forward who is younger than the Nike or legal age limit, whichever is higher. To further ensure these age standards are complied with, the contractor does not use any form of homework for Nike production.

3. **Compensation.** The contractor provides each employee at least the minimum wage, or the prevailing industry wage, whichever is higher; provides each employee a clear, written accounting for every pay period; and does not deduct from employee pay for disciplinary infractions.

4. **Benefits.** The contractor provides each employee all legally mandated benefits.

5. **Hours of Work/Overtime.** The contractor complies with legally mandated work hours; uses overtime only when each employee is fully compensated according to local law; informs each employee at the time of hiring if mandatory overtime is a condition of employment; and on a regularly scheduled basis provides one day off in seven, and requires no more than 60 hours of work per week on a regularly scheduled basis, or complies with local limits if they are lower.

6. Environment, Safety and Health (ES&H). From suppliers to factories to distributors and to retailers, Nike considers every member of our supply chain as partners in our business.

As such, we've worked with our Asian partners to achieve specific environmental, health and safety goals, beginning with a program called MESH (Management of Environment, Safety and Health).

7. Documentation and Inspection. The contractor maintains on file all documentation needed to demonstrate compliance with this Code of Conduct and required laws; agrees to make these documents available for Nike or its designated monitor; and agrees to submit to inspections with or without prior notice.

Source: Retrieved 3 June 2003 from the World Wide Web: <http://www.nike.com/>.

## **APPENDIX 4**

### **NIKE TIMELINE**

The following is a timeline demonstrating the changes in Nike's stance on social responsibility over time, as a result of the anti-sweatshop movement.

#### **1960s –1970s**

- Nike was founded in 1964.
- During the 1970s, Nike manufactured sports shoes in Japan, Taiwan and South Korea.

#### **1988**

- An Indonesian trade union newspaper published a report exposing poor working conditions at a South Korean shoe company producing for Nike.

#### **1989**

- More than half of Nike's sneakers were made in South Korea, which was then ruled by an authoritarian government. As workers gained wage increases and union rights, Nike shifted production to Indonesia and China. Barely two per cent of Nike's sneakers are now made in South Korea.
- Articles appeared in Indonesian newspapers about wage protests held at Nike contract factories. Claims made included wage levels paid at 86 cents per day or at illegal training wage levels.

#### **1990**

- Indonesian authorities crush the rise of the Solidarity independent trade union.

#### **1991**

- Strikes were held at two Indonesia Nike producing factories.

- The Indonesian ‘Media Indonesia’ ran a three-day report on abuses at Nike producing shoe factories. Thames Television and the Economist also reported on poor working conditions of Nike producing factories in Indonesia.

## 1992

- ‘The Oregonian’ prints a lengthy article on Nike’s Indonesian operations. Phil Knight writes a denunciation.
- A US State Department report to congress on human rights highlighted that Nike shoe factories were refusing to pay Indonesia’s minimum wage.
- The Indonesian government raised the minimum wage by 500 Rupiah per day. Nike contract workers in Sung Hwa Dunia factory, Indonesia, failed to receive this and instead received 120 Rupiah per day.
- Nike formulated a COC and Memorandum of Understanding for contractors. The COC outlines occupational health and safety and management practices, that recognise the dignity of the individual, the rights of free association and a workplace free of harassment and abuse (See Appendix 3 – Nike COC).

## 1993

- In Indonesia, 24 Nike workers were accused of organising a strike and fired. This case goes to the Indonesian Supreme Court, where the case has been sitting for several years.
- Critical reports of Nike labour practices are reported in the New York Times, International Herald Tribune, The Economist, Jakarta Post and CBS television.
- Sneaker campaigns are undertaken in Holland, Italy and Germany.
- A strike was held at the Pou Chen Nike producing factory in Indonesia.
- Nike signed the Athletic Footwear Association “Guidelines on Business Practices of Business Partners,” which calls for the observation of the right to free association, fair compensation and the prohibition of corporal punishment.

## 1994

- Nike employs Ernst and Young to monitor their factories overseas.



- Major investigative reports feature in US media, exposing poor working conditions at Nike's Indonesia factories.
- Donald Katz' book 'Just Do It,' characterises Indonesian operations as 'management by terror and browbeating'. Nike's CEO, Phil Knight, appears with Katz for Portland book signing.
- Strikes held at 4 Indonesian Nike factories.

## 1995

- 15 women are physically abused for poor workmanship at a Nike producing factory in Viet Nam. The supervisor is tried and convicted of criminal abuses in 1996.
- USAID funded research finds that more than 500 workers at Nike factories in Indonesia, have reported problems such as forced overtime and illegal wage deductions.
- Strikes in Indonesian Nike factories result in the dismissal of 13 workers.
- Washington based Multinational Monitor adds Nike to annual "ten worst" corporations list.

## 1996

- Portland organisation – Justice Just Do It – begins regular protests at the Portland Nike store.
- New research by Press for Change uncovers widespread violations of Nike's COC in Indonesia.
- Kathie Lee Gifford controversy in the US brings unprecedented media attention to sweatshop issue.
- The White House forms 'Apparel Industry Partnership (AIP)' to deal with sweatshop issues. However, a fired worker from a Nike producing factory in Indonesia is denied a chance to speak at AIP's founding conference.
- Pakistani children as young as seven years old, stitch Nike soccer balls for as little as 60 cents per day.
- Nike joins President Clinton's 'Fair Labor Coalition'.

- The United Methodist Church - holding 61,700 shares in Nike - introduced a shareholder resolution that would require Nike to seek independent monitoring and clean up its labour practices. The proposed resolutions were voted down by Nike's Board of Directors.
- Nike establishes a Labour Practices Department.
- Nike joins 'Business for Social Responsibility' after turning down two years of invitations.
- A CBS documentary outlines Nike worker abuses by a factory supervisor in Viet Nam. The supervisor flees the country before the authorities can put him on trial.
- Canada and France send hundreds of thousands of protest post-cards to Nike.
- Nike sends a five-page letter to universities in North America to explain the child labour controversy.
- Brutal political and labour union crackdown in Indonesia.

## 1997

- Phil Knight becomes the sixth richest person in US with \$US 5.3 billion (all from shoes and apparel).
- Big May Day protest held at Nike store in Portland, followed by protests at Nike stores across the US.
- Asian economic crisis and crash of Indonesian currency brings Nike contractors' labour costs down from \$US 2.50 per day to 70 cents per day.
- Nike hires former civil rights leader and UN ambassador, Andrew Young, to report on the conditions in Nike's Asian plants. His conclusion was that "Nike is doing a good job in the application of its Code of Conduct. But Nike can and should do better". Anti sweatshop activists labelled the study a whitewash and point out that Nike should be in complete compliance with its own COC.
- US Soccer organisations endorse the FIFA labour code, which prohibits the use of child labour.
- In China, Nike factory management only paid workers half their regular wages, forcing workers to strike until management agreed to pay their full wages. In March 1997, all striking production staff were fired.

- At the invitation of Nike, a Vietnamese businessman, Thuyen Nguyen, takes a pre-arranged Nike factory tour in Viet Nam. Nguyen independently travels to factories not on the tour and speaks to workers off grounds. Nguyen documents allegations of abuse and launches the anti-sweatshop organisation Vietnam Labor Watch.
- On international women's day in Viet Nam, 56 women are forced to run around the Nike factory because they did not wear regulation shoes. A dozen women collapse from heat exhaustion.
- President Clinton's AIP, with representatives of human rights groups, labour unions and corporations such as Nike, announce an agreement which will set standards for labour practices in the garment industry. Nike signs AIP Agreement.
- The minimum wage for factories in Indonesia increases from \$US 2.25 to \$US 2.46 per day. Nike factory managers applied for exemptions from the minimum wage.
- In Indonesia, 10,000 workers from the HASI factory go on a protest march because their paycheques do not reflect the new minimum wage increase. Management then stripped workers of an attendance bonus to offset the rising minimum wage. In April 1997, Nike agrees to pay minimum wages for Indonesian workers.
- Dusty Kidd, Director of Nike's Labor Practices Department, admits at a press conference that probably 80 percent of the Nike contract factories applied for and received minimum wage exemptions for at least two years.
- In Viet Nam, 1,300 Sam Yang Vina factory workers go on strike to request a one-cent per hour raise in their salaries. Other issues include excessive and illegal overtime, compensation for working with hazardous material and emergency medical services for nightshift workers. Refusing to submit to threats of termination, the workers remain behind locked gates within factory grounds.
- The International Confederation of Free trade Unions denounces Nike operations in Indonesia and Viet Nam.
- Nike stock drops 26.8 per cent as a result of slower sales growth than expected, attributed to exposure of Nike's labour practices.
- In Viet Nam, 1,800 workers at the Sam Yang factory go on strike, forcing the management to sign a collective bargaining agreement with workers. Less than a

week later, factory management states its intent to fire up to 700 workers involved in the strike.

- A Vietnamese tribunal gives a Nike factory supervisor a suspended prison term for various labour abuses.
- Students protest against Nike at US universities. The US Student Association passes a resolution condemning Nike's labour practices.
- In Bangladesh, 9 workers are jailed, 300 injured and 97 terminated from their jobs, after a labour demonstration at a Nike contractor factory.
- 1996 Nobel Peace Prize recipient Jose Ramos Horta of East Timor stated, "(Companies) like Nike should be viewed as enemies, in the same manner we view armies and governments that perpetrate human rights violations. What is the difference between the behaviour of Nike in Indonesia and elsewhere and the Japanese Imperial army during World War II?"
- Nike announces plans to temporarily cut relations with four Indonesian factories that do not comply with Nike's COC.
- Around the world, 28 US states and 13 countries participate in an international day of protest centred on Nike's labour practices.
- First year MBA students at Dartmouth's Amos Tuck Business School release a favourable study of working conditions in Nike factories in Viet Nam and Cambodia. This report is criticised as a Nike sponsored evaluation.
- Dara O'Rourke, an independent consultant with the UN, audited approximately 50 factories in Viet Nam. His evaluation reveals factories with low pay, health and safety hazards, sexual harassment and violations of numerous Vietnamese labour laws. In addition, O'Rourke is leaked an internal Ernst and Young document which states that Nike paid workers \$US 45 for working 267 hours per month (this wage is 20 per cent below Vietnamese labour law). Ernst and Young's official report however stated that Nike was in compliance with Vietnamese minimum wage law at 19 cents per hour.

## 1998

- Phil Knight vows to eliminate hazardous chemicals in shoe production.

- Unions and most human rights groups leave White House panel on sweatshops, due to irreconcilable differences on monitoring and reporting compliance. It became clear that the Partnership and its offspring, the Fair Labor Association (FLA) would not take a strong stand against exploitative labour practices.
- Film maker, Michael Moore, interviews Phil Knight for movie “The Big One” where Nike announces a pay increase (25 per cent) for Indonesian shoe workers. These wages were adjusted for inflation and are still 30 per cent behind the mid 1997 wage level.
- Michael Jordan, Nike’s premier endorser, makes the first of several promises to visit Asian production facilities.
- Nike is faced with mounting protests and falling sales and stock prices. Knight announces sweeping reform and Nike’s New Labour Initiatives at the National Press Club. Nike commits to raise the minimum hiring age at its offshore factories, tighten its air quality standards to meet US requirements and allow labour and human rights groups to join its official auditing firm in inspections.

## 1999

- Joseph Ha, a top adviser to Phil Knight, sends a letter to Viet Nam’s highest ranking labour official, portraying anti-sweat activists as enemies of the state with political agendas.
- In Viet Nam, a government survey of 175 businesses shows that Nike shoe factories have the largest wage disparities.
- Under pressure from students, Nike agrees to disclose factory locations where university apparel is being produced.
- Nike increases advertising spending by 53 per cent for 2000.
- Nike factory in Viet Nam was the site of country’s largest food poisoning incident of the year.
- An open letter from 45 organisations was delivered to Nike at the company's annual shareholders' meeting. The letter calls on Nike to end labour rights abuses in its supplier factories.

## 2000

- Indonesian officials, police and military are linked with bribe taking, to reduce Nike factory wages.
- The University of Oregon joins the Worker Rights Consortium, a sweatshop monitoring group started by labour and student activists. Knight withdraws a planned \$US 30 million gift to the University of Oregon.
- The UN Global Compact partnership was signed between UN and corporations, supporting the missions of the UN. These companies – including Nike - vow to eliminate child labour, to protect human rights and to honour the workers' ability to unionise. Knight stated, "real solutions that improve people's lives will result if we can make this partnership work".

## 2001

- In Mexico, approximately 600 workers were fired from the Kuk Dong plant for attempting to start an independent union. Further attacks against workers at the Kuk Dong factory, raised serious questions about Nike's commitment to protecting workers' rights. Workers were attacked by riot police after they went on strike to protest the firing of five fellow workers who had opposed rotten food in the cafeteria and low wages.
- Nike admits to labour abuses including inadequate wages, verbal abuse of workers and sexual harassment in a Nike-funded report by the Global Alliance for Workers and Communities.
- Nike organises a publicity stunt to mock anti-sweatshop protests by staging a fake Nike protest at a train station, passing out photocopied flyers and shouting protests against its own company.
- Regular weekly protests commence outside major a Nike store in Melbourne, Australia.
- Global Exchange release a report, 'Still Waiting for Nike to Do It'. It outlines how three years ago, Knight pledged significant reforms to the company's labour practices. This report comprehensively examines Nike's labour performance in the three years since that speech was made.

- Oxfam Community Aid Abroad wrote to Nike asking the company to reconsider its decision to cease ordering from PT Doson, in Indonesia.
- Nike ceased ordering from the Mexmode factory (formerly known as Kuk Dong) in Southern Mexico after workers won the right to form their own union.
- Nike launched its first corporate responsibility report.
- According to a new report by the National Labor Committee, Nike contract employees in Bangladesh work up to 78 hours a week and are paid less than 20 cents an hour.
- Nike announced its return to contracting with unionised Mexican factory, Mexmode,
- A report on Nike's operations in Indonesia outlined that "currency devaluation and steep inflation has left workers facing greater difficult surviving on Nike wages today than before protests over sweatshops began." The report states that Nike could be paying more to struggling workers in Indonesia and still save money on production costs.
- Nike responded to this report with denials and claims of improvement. Nike cautions, "let's not allow American advocacy groups protecting their domestic job base to confuse what they want with what workers in developing countries need: good jobs with fair wages that provide opportunities to bring a lifestyle and life skills that are not typically available in the areas where our products are manufactured".

## 2002

- Nike proceeded with its decision to cease ordering from PT Doson in Indonesia, effectively closing the factory.
- A US federal appeals court broadens the potential liability of US corporations for human rights abuses committed abroad, by reinstating a civil lawsuit against Unocal Corporation, for alleged mistreatment of villagers in Myanmar.
- United Students Against Sweatshops and other groups criticised Nike's labour practices and for its production in China, where independent unions are prohibited.

- California's highest court held that Nike has potential liability for its public mis-statements about its third world contracting practices.
- Oxfam released a report 'We Are Not Machines' on wages and conditions in Nike and Adidas contract factories in Indonesia. The report found that workers are not paid enough to meet basic needs and that they have reason to fear discrimination and harassment if they become involved in unions.
- Nike responded to international campaigners' demands and promises to resume orders to Mexmode, one of the few clothing factories in Mexico with a democratic union. Nike lodged a substantial order with the factory, to the value of roughly \$US 2.5 million.
- In Indonesia, four thousand Nike workers marched on the US embassy in Jakarta, protesting Nike's decision to cease ordering from the PT Doson factory. This will result in the factory's closure, putting 7,000 workers out of a job. Hundreds of discharged workers held a series of demonstrations to protest their abrupt discharges and to demand payment of about \$US 400,000 in unpaid compensation.

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