
Vigilantes and Verifiers

Look, I don't have time to be some kind of major political activist every time I go to the mall. Just tell me what kind of shoes are okay to buy, okay?

—Teenage girl, Saint Mary's Secondary School,
Pickering, Ontario, Canada (Klein 1999, 399)

The market for labor standards requires activists who investigate labor conditions associated with products, agitate for better standards, and stimulate consumers to demand higher standards in the products they buy. We call these activists human rights *vigilantes*. They focus on the human rights of workers. They are vigilantes because they are self-appointed rather than the elected representatives of workers in less developed countries (LDCs) or of consumers in advanced countries. Examples of vigilante activists include Corporate Watch, Jeff Ballinger's Press for Change, and the National Labor Committee, all of which focus on digging up dirt on workplace abuses.

The market also needs activists of a different sort, to monitor standards in particular firms or countries and make that information available to firms and consumers. We call the groups who monitor compliance with standards human rights *verifiers*. Firms or other parties, including vigilantes, hire these groups to make plant visits and audit working conditions to determine whether firms are complying with codes of conduct. Examples of verifiers include social audit groups, such as Verité, and nongovernmental organizations (NGOs), such as Social Accountability International.

Although agitating and monitoring are not exclusive activities, there are differences between the two tasks and the groups that undertake

them.¹ Vigilantes are more aggressive. Their job is to find human rights abuses and rouse consumer concerns about them. Verifiers are more conciliatory toward firms. Their job is to help a firm carry out its commitments to improve conditions. The market for labor standards needs both groups of activists to function well. Vigilantes keep consumers riled up with their exposés. Without them, most firms, governments, and international agencies would ignore demands for improved standards. Verifiers help firms respond positively by demonstrating improvements in working conditions. Without them, firms would be unable to convince anyone that they took their codes of conduct seriously. Both groups are needed to raise labor standards commensurate with consumer desires and the costs of improving standards.

The Work of Vigilantes: Antisweatshop Campaigns

Human rights vigilantes produce campaigns for labor standards that alert consumers to poor workplace conditions associated with branded products and then try to use that awareness to pressure corporations in their operations and among their suppliers. Vigilantes need entrepreneurial and political smarts to succeed with antisweatshop campaigns that necessarily involve a number of tasks (box 3.1). In the short run, they must uncover the facts about workplace conditions in overseas operations and present the facts to the public in a way that resonates with consumers and induces managers to improve conditions.

However, because even the most extensive antisweatshop campaign can affect only a small number of workers in export sectors, the vigilantes must also pressure governments and international institutions to take steps to improve working conditions more broadly in LDCs. The broadest and most lasting improvements will come if their campaigns enhance the ability of workers to form unions or to otherwise represent their own interests. What makes this activity difficult is that vigilantes have no official power to change anything. They must induce, cajole, or pressure consumers, managers, governments, and international agencies to take actions that those groups would otherwise not take.

The first step in the campaign—to obtain accurate, credible information about labor conditions in factories that produce brand-name goods—requires investigative reporting skills. Getting such information is difficult for both technical and political reasons. On the technical side, the chains

1. The International Labor Rights Fund is the most prominent group that plays both roles. It is behind many of the lawsuits against multinational corporations under the Alien Tort Claims Act; but it also helps train NGOs in Central America to gain accreditation to verify compliance with the Fair Labor Standards code. Also see Winston (2002), who characterizes the two styles as those of “confronters” and “engagers.”

Box 3.1 Guide to an activist campaign

Task 1: Find out the truth about working conditions. You must make sure the information is accurate, because the firm will ridicule you mercilessly if it is not. The hard part is getting access to the workers. If you have good information, you will force the firm to catch up, because the odds are that the firm has gone out of its way not to see the real conditions.

Task 2: Find a symbol of the problem that resonates with consumers. Most consumers care a lot about children working long hours under abusive conditions. They care if a worker risks serious injury, illness, or even death to feed her family. They typically do not care about union rights and assume that adult males can take care of themselves. So find an exploited young worker with some presence and charisma.

Task 3: Keep the pressure on and use the firm's responses to advance the campaign. The firm will first deny that there are problems. Then it will announce a code of conduct for its subsidiaries that it will promise to monitor internally. Or it may ask its usual business auditor to verify code compliance. This is real progress, because the firm is now accountable. Even though their code of conduct may be designed as a fig leaf, you can force them to make it real. Remember, "Important social change nearly always begins in hypocrisy" (William Greider, *The Nation*, October 2, 2000). Also, try buying some shares and agitate at stockholders' meeting for the firm to live up to its own word. Remember, the firm has money, you do not.

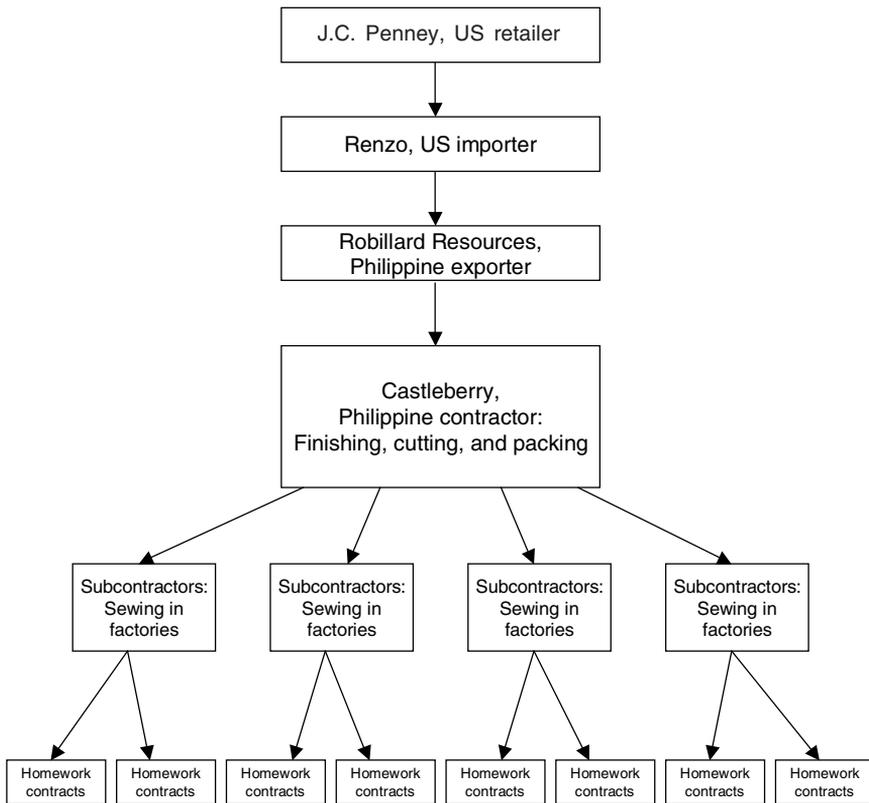
Task 4: Leverage the campaign to pressure governments and international organizations to do more to raise labor standards generally. The firm will stress that it pays more and has better conditions than most employers in developing countries. That is right. If your target firm can improve conditions, so can many others. The goal is to improve conditions broadly, not just in a target firm. For this, you need help from governments and international institutions.

Source: Authors' analysis based on Keck and Sikkink (1998, 16–25), who identify four categories of tactics common to most transnational advocacy efforts: information politics, symbolic politics, accountability politics, and leverage politics.

that link manufacturers or retailers to workers in LDCs are often long and complicated, making it hard to know which goods are produced under what conditions in the global economy.

Consider the chain of production for apparel for the US retailer, J.C. Penney Company, Inc., in just *one country*. Figure 3.1 shows that J.C. Penney procures its infant and children's apparel in the Philippines from an importer that gets them from a contractor that relies on subcontractors and home-based production. Through its entire supply chain, J.C. Penney contracts with more than 2,000 suppliers in more than 80 countries, each of which may subcontract to many other producers. Another major US retailer, Nordstrom, has more than 50,000 contractors and subcontractors.

Figure 3.1 The chain of production for a typical US retailer



The National Labor Committee estimates that Wal-Mart has used 1,000 factories in China and that Disney products are made in 30,000 factories around the world.

On the political side, managers of export processing zones and authoritarian governments often try to prevent activists from uncovering information about poor working conditions. In some countries, firms have gated factories to keep workers in and union organizers or others concerned with workers out. In some countries, workers live in factory-run dormitories and eat in factory-run canteens under conditions that make it difficult for them to publicize or protest bad working conditions. Outsiders seeking to interview workers may be arrested, deported, or physically attacked. Workers who report bad conditions may be assaulted by company guards or fired and blacklisted by local firms.

The situation is especially difficult in countries with closed political systems, such as China. Although China's labor laws provide for reasonably

good working conditions, the government does not permit independent unions. Neither the official All-China Federation of Trade Unions nor other government agencies have much power to enforce the laws. For activists to find out what is going on inside a single major supplying factory can take considerable resources. In 2001, the National Labor Committee successfully investigated a few Chinese factories, but no human rights group would have the resources to assess conditions in the 1,000 or so Wal-Mart suppliers in China, much less in the hundreds of thousands of suppliers for the US market as a whole.²

The second challenge facing activists is to package what they learn about working conditions in a way that resonates with consumers and generates enough publicity to put labor conditions on the public agenda. Human rights vigilantes do not have large public relations budgets. In a world plagued by catastrophes, wars, and multiple injustices, they compete for attention with other compelling issues as well as with the weekly entertainment, sports, and scandal reports. To obtain public attention, activists often personalize their message to consumers by telling the story of a particular worker or group of workers that become the symbol of exploitation. This is called giving the problem a “face.” Where possible, they also highlight the closeness between the consumer and the product, as with logo clothing products for the college market or toys produced with child labor.

The type of abuse that consumers care most about also affects what activists can do. As chapter 2 showed, child labor and unsafe working conditions attract more sympathy from consumers than do restrictions on union activities. It is easier to rouse the public about Maria, the 13-year-old milliner who works 70 hours a week in Honduras, than about José, the union activist killed by a right-wing death squad in Colombia. In addition, consumers pay closer attention to conditions associated with some items, such as clothing, footwear, and coffee, than with others, such as pencils or punch-hole machines. Activists must pitch their campaigns to deal with these preferences.

The third challenge facing vigilante activists is to get firms to institute corrective policies. The typical firm response to a campaign highlighting labor standards problems is to announce a code of conduct to prevent such occurrences in the future. Activists usually must apply additional pressure to get the firm to specify how, if at all, it intends to monitor and enforce compliance with its code. When firms resist independent monitoring of compliance, activists must use the firm’s own words to pressure it to follow with deeds—what Keck and Sikkink (1998) call “accountability politics.” The typical antisweatshop campaign must generate several rounds of publicity and pressure to change behavior.

2. See www.nlcnet.org/china/1201/toysofmisery.pdf (May 8, 2003).

It is perhaps surprising that few activist groups try to answer the bottom-line question that the young woman from Ontario raised at the outset of this chapter: Which shoes are okay to buy? Activists are cautious about making lists of products to buy or to boycott, for two reasons. First, they fear that a campaign that reduces sales of items made under bad conditions will harm the very workers the campaigns want to help (so much for protectionism!).

Second, they fear that if they give a clean bill of health to a product, someone will find that somewhere in the world the firm or one of its subcontractors nevertheless abuses workers (highly likely given the long supply chains), which could reduce their credibility. With many competing activists in the antisweatshop movement, if group A declares Nike a “good employer” but group B finds that in some factory Nike has treated workers poorly, group A’s standing in the movement and in the public eye will deteriorate, and resources will go to its rival B.

Still, some groups offer seals of approval for certain products, often by removing the intermediary and shortening supply chains. For example, Transfair USA certifies coffee and a few other “fair trade” products. A growing number of NGOs and commercial firms systematically monitor firm compliance with codes of conduct and give reports that the firm can cite to show that it is doing the right thing. But when Consumers Union expressed an interest in the 1990s in including an evaluation of labor standards in its product ratings, activist groups did not respond with a listing.

Such skittishness about giving consumers a positive alternative to sweatshop products is understandable given the informational burden involved, but it reduces the potential impact of campaigns. Without a widely accepted “good conditions or making improvements label” to apply to firms or products, antisweatshop campaigns will never be able to harness consumers’ demands for better products on a large scale.

Global Antisweatshop Campaigners

Campaigns to improve conditions in low-wage, labor-intensive production, particularly in apparel sweatshops, have been around almost since the Industrial Revolution began. At the opening of the 20th century, poor working conditions in US sweatshops roused Progressives, particularly after the famous Triangle factory fire in New York in March 1911.³ With the shift of the industry to LDCs and the acceleration of globalization in the 1980s and 1990s, antisweatshop campaigns became more transnational,

3. A total of 146 mostly young immigrant women were killed when a fire broke out in the factory and they could not escape because the doors were locked and pathways blocked. See www.ilr.cornell.edu/trianglefire/ (May 8, 2003).

with activists based largely in the United States and Europe targeting working conditions in poor LDCs.

To be sure, there has been a resurgence of sweatshops in the United States, fueled by the immigration of low-skilled workers from Mexico, Central America, and China, many of them illegal. But the vast majority of sweatshops are located in LDCs (Weil 2000; Duong 2000). In 2000, 85 percent of US consumption of footwear and more than 50 percent of apparel was imported.⁴

Campaigns to improve working conditions in LDCs necessarily differ from those in advanced countries. American and European activists cannot use courts or voting to pressure developing-country governments to improve conditions where the activists have no legal presence. Instead, the activists must harness consumers or shareholders in their own country to pressure multinational corporations to raise labor standards in overseas operations. They can also lobby advanced countries to negotiate to add labor standards to trade agreements.

The strategy of pressuring corporations in one's own country to help remedy problems in other places where the firm also operates has roots in the anti-apartheid movement. In the 1980s, the Reverend Leon Sullivan and other American activists developed a set of principles for companies operating in South Africa. The Sullivan principles required that firms initiate personnel policies—for example, training and promoting nonwhites—that they hoped would ultimately undermine the apartheid system. At the same time, these and other activist groups demanded that investors, including universities and pension funds, divest themselves of the stock of firms with South African investments.⁵

The end of apartheid in South Africa and the fading of the Cold War led many activists to shift their focus to other human rights issues, including labor standards in LDCs. Some antisweatshop activists—such as South African Aurret van Heerden, the executive director of the Fair Labor Association—come from the anti-apartheid movement. Others trace their lineage to protests on human rights abuses and political repression by governments during the Cold War, particularly in Central America. For these groups, antisweatshop campaigns are a new phase in the fight for social justice.

Appendix A lists some of the key US-based groups, along with their Web site address and key characteristics.⁶ To obtain this listing, we updated a 1999 directory of US antisweatshop organizations done by

4. US Department of Commerce, "Trade and Economy: Data and Analysis," available on the International Trade Administration Web site at www.ita.doc/td/industry/otea/usito98/tables_naics.htm (February 7, 2003).

5. For a detailed history of the anti-apartheid movement, see Massie (1997).

6. For a list of roughly 100 groups involved in the broader protests against globalization, see Elliott, Kar, and Richardson (forthcoming).

Global Exchange, removed groups that seemed to have disappeared, and added groups outside the clothing area (e.g., coffee farmers, rug makers). A more extensive search of the Web and activist networks would undoubtedly yield more groups. Slightly more than half of the groups in our list were formed in the 1990s, and nearly 80 percent have existed only since 1980. Most are small operations rather than mass membership organizations.

We classify the groups into four types: activist-left—those that are relatively more likely to play a vigilante role; “do-gooders”—those that are relatively more likely to engage with firms to verify compliance, or provide services, such as legal assistance, directly to workers; ethnically oriented groups; and religious groups—those associated with churches or with a faith-based orientation.

For example, we categorize the National Labor Committee, which grew out of the Central American peace protests, and United Students Against Sweatshops (USAS) as activist-left. We categorize groups such as Co-op America and Verité, which monitor conditions of subcontractors for firms, as apolitical “do-gooders.” We categorize the Interfaith Center for Corporate Responsibility, which was a key actor in the efforts to reduce foreign investment in South Africa, and the New York State Labor-Religion Coalition as “faith-based.” Because such groups vary across many dimensions, our classification is just one of many ways in which one might seek to organize the groups.

In some cases, the activist-left groups have been more aggressive than the other groups, but in other cases, they seem more attuned to the economic realities that limit what can be done for workers in poor countries. For instance, some of the groups we categorize as activist-left pressure factories to improve working conditions while accepting that wages will be low. By contrast, the Interfaith Center for Corporate Responsibility has argued that “a factory may be clean, well organized and monitored, but unless the workers are paid a sustainable living wage, it is still a sweatshop.”⁷ Faith-based and student groups are important for bringing “muscle” to the antisweatshop movement because they can enlist large numbers of people. Religious groups draw on their congregations, whereas USAS draws on college students.

Key Campaigns

Appendix B summarizes the major antisweatshop campaigns of the 1990s. The first substantial action was a preemptive one in 1992, when Levi Strauss adopted a code of conduct in response to allegations that its supplier factories in the US territory of Saipan underpaid workers and violated

7. This is quoted from an Interfaith Center for Corporate Responsibility press release issued upon the center’s declining to endorse the Apparel Industry Partnership agreement.

labor laws (Varley 1998, 12). Shortly thereafter, a national television broadcast showed children in a Bangladesh factory sewing Wal-Mart label garments, leading Wal-Mart to develop its Standards for Vendor Partners. But in the spring of 1996, Wal-Mart found itself in bigger trouble when the National Labor Committee reported that clothing endorsed by television personality Kathie Lee Gifford and sold at Wal-Mart was made under exploitative conditions in Honduras.

The Kathie Lee Gifford exposé brought the sweatshop issue to national attention. The symbol for this campaign was 15-year-old Wendy Diaz, a Honduran orphan who had worked long hours for low wages at the plant since she was 13 to support herself and three younger brothers. Diaz's story struck a particular chord because the Gifford labels advertised the celebrity's commitment to children and pledged a share of the profits to children's causes. In tears, Gifford initially denied the allegations on her television show, then condemned the sweatshop practices and pledged to ensure that her clothing line was never again made under such conditions. After other Gifford-endorsed clothing was discovered being manufactured in a New York City sweatshop that had violated wage laws, US Secretary of Labor Robert Reich enlisted her in his No Sweat campaign to combat sweatshops in the United States (Chowdhury 1997). Reich had launched this campaign after investigators found illegal Thai immigrants sewing garments in slavelike conditions in El Monte, California, in August 1995.

At about the same time, Charles Kernaghan, the director of the National Labor Committee, and other activists pressured the Gap to allow independent monitoring by a local NGO at a contract facility in El Salvador. In 1997, US unions and the US-Guatemala Labor Education Project (now the US Labor Education in the Americas Project) pressed Phillips-Van Heusen, whose chief executive officer sat on the board of Human Rights Watch, to recognize a union at a joint-venture facility in Guatemala. This was the first time a union had been recognized in that country's apparel-for-export sector (Varley 1998, 12–13).

Student activism on the antisweatshop movement took off in the late 1990s in a sudden and sharp spurt of the type that often characterizes social movements (Freeman 1999). In 1995, the Union of Needletrades, Industrial, and Textile Employees (UNITE) hired a young college graduate, Ginny Coughlin, to coordinate its emerging antisweatshop activity on campuses. The AFL-CIO's first Union Summer in 1996 generated some student interest in the issue, but it was Coughlin who did the most to catalyze student antisweatshop activity.

In 1997, UNITE hired 11 summer interns, all of whom had been active in a campaign against Guess jeans in California, to work on antisweatshop activities. One intern, Tico Almeida, returned to Duke University in the fall and initiated an antisweatshop campaign there. When Duke agreed to student demands that the university require its licensees to produce

items under decent working conditions and allow independent monitoring, the story was reported in the *New York Times* (March 8, 1998, A16).

By the spring of 1998, there was enough campus activity on antisweatshop issues nationwide to form USAS, whose major demand was that the Collegiate Licensing Company, the agent for 160 universities, implement stronger codes of conduct for its suppliers. In just two years, USAS had chapters on nearly 140 campuses, ranging from elite universities with a tradition of student protest to small liberal arts schools.

Initially, student activists demanded that firms disclose the location of their overseas operations, so that outside groups could assess the quality of workplace conditions. The firms refused to provide this information on the grounds that it was a trade secret. Yet because many factories produced items for different brands and any firm that wanted to find competitors' factories could do so relatively easily, the firms' claim had little credibility.

Persistence on the disclosure issue was rewarded in the fall of 1999, when several firms agreed to make this information public. Nike released a list of 41 plants that produced its licensed apparel for several universities (Duke, North Carolina, Georgetown, Michigan, and Arizona).⁸ Once these firms agreed to list their plants, the door was open for pressure on others. In June 2000, under USAS pressure, more than 150 universities voted to require all their licensees to uniformly disclose plant locations.

The student activists were able to focus attention on sweatshops in a particularly powerful way because they are major consumers of college logo items and are geographically concentrated. They could easily identify the relevant consumers—fellow students—and mount protests at identifiable sites—college campuses—that would gain their attention. Other groups have to appeal to consumers in the broader marketplace, where it is harder to identify particular concerns and to focus on particular products.

The Work of the Verifiers: Code Development and Monitoring

To stave off attacks that their products were made under poor working conditions, many firms with brand-name products adopted codes of conduct. An International Labor Office report (1998b) on corporate codes and social labels identified 200 codes of conduct, whereas the Investor Responsibility Research Center (Varley 1998) collected 121 codes from a survey of Standard & Poor's 500 companies and 80 retailers.

These initial codes varied widely in content. Most pledged to avoid child labor, but few dealt with freedom of association. Most of the codes did not specify how the firm would monitor and enforce compliance,

8. See www.nikebiz.com/labor/disclosure.shtml (January 1, 2001).

raising the danger that managers overseas would just post the code in their offices or send it to subcontractors and proceed to do business as usual. One leading activist derided these internal corporate codes as having “flunked the fox-in-the-chicken-coop test” (Compa 2001).

But the codes were not useless. Once firms accepted responsibility for conditions in supplier facilities, human rights vigilantes could pressure the firms to accept common standards and to allow independent external monitoring to verify their compliance. The result was a sudden growth of multistakeholder codes and monitoring schemes, some oriented toward human rights activists and others toward the business community.⁹ To many vigilantes, independent verification meant hiring NGOs from relevant LDCs to undertake monitoring. To firms, however, independent monitoring meant hiring audit firms with which they regularly did business in other areas to make plant visits and report on compliance. For those firms that agreed with the activists on the need for some independent verification of compliance, controversy focused on the merits of the different schemes.

By the end of 2001, there were three codes with external monitoring and verification efforts: the Fair Labor Association (FLA), Worldwide Responsible Apparel Production (WRAP), and Social Accountability International (SAI). In addition, USAS developed the Workers’ Rights Consortium (WRC) as an alternative to FLA for universities seeking to implement codes of conduct, using a very different model. Rather than undertaking systematic monitoring, WRC carries out ad hoc investigations of complaints, operating more like a grievance mechanism.

FLA grew out of the Apparel Industry Partnership, which US president Bill Clinton, US Secretary of Labor Robert Reich, Kathie Lee Gifford, and others launched at a press conference in August 1996, following the Wendy Diaz controversy. This initiative followed Reich’s *domestically* focused No Sweat campaign (Chowdhury 1997). The Apparel Industry Partnership brought together apparel manufacturers and retailer-importers, unions, and NGOs to develop an industrywide code and monitoring mechanism to verify compliance globally. When the group released its draft code and principles for monitoring in April 1997, antisweatshop activists differed on its merits. UNITE president and Apparel Industry Partnership member Jay Mazur called the code “unprecedented . . . a step in the right direction.” Activist Medea Benjamin of Global Exchange blasted it as a “lousy agreement,” primarily because it did not include a living wage.¹⁰

9. All of these initiatives are constantly changing and adapting to new demands, so we encourage readers to visit their Web sites for updates: www.fairlabor.org, www.wrapapparel.org, www.sa-intl.org, www.workersrights.org, www.ethicaltrade.org, and www.cleanclothes.org. Another excellent source for information on codes of conduct is the Maquila Solidarity Network’s “Codes Update,” available at www.maquilasolidarity.org.

10. *NewsHour* transcript, April 14, 1997; see also Benjamin (1998).

In November 1998, the Apparel Industry Partnership unveiled plans to create FLA to oversee the implementation and monitoring of the code. At that point, UNITE, the Retail, Wholesale, and Department Store Union, the other union that belonged to Partnership, and the Interfaith Center for Corporate Responsibility left the group. They complained that the new FLA gave corporate board members too much influence; that the FLA code failed to require firms to pay a living wage; that FLA did not adequately address union rights in nondemocratic countries; and that it had a weak monitoring and verification mechanism. They left the group. Four years later, FLA's board still had no union representatives, though Lenore Miller, president emeritus of the Retail, Wholesale, and Department Store Union, served on FLA's NGO Advisory Council in a personal capacity.

Controversy and difficulty notwithstanding, FLA began, slowly, to do what it was created to do. By summer 2002, FLA had approved 12 companies for participation in its inspection system, up only slightly from the 10 original corporate members, including Nike, Reebok, Phillips-Van Heusen, Liz Claiborne, Adidas-Salomon, Eddie Bauer, GEAR For Sports, Patagonia, Polo Ralph Lauren, and two college licensees, Zephyr Graf-X, and Joy Athletic. Levi Strauss, saying it was frustrated by the slow pace of FLA's efforts, announced at the end of 2002 that it would withdraw from FLA. But at the same time, Nordstrom became the first major retailer to join. In addition, the more than 170 universities affiliated with FLA pressured nearly 1,000 suppliers of college logo apparel and other products, including class rings, yearbooks, plastic rugs, and other knick-knacks, to apply for limited participation in FLA monitoring.¹¹ FLA also had accredited 11 monitoring groups operating in Latin America and Asia, including NGOs based in Guatemala, Thailand, and Bangladesh.¹²

In response to FLA, the American Apparel and Footwear Association developed its own code and certification system for individual manufacturing plants, the WRAP program, whereby retail "endorsers" were encouraged to purchase from certified suppliers. But WRAP has little credibility with NGOs and received little consumer or media attention. One activist group, the Maquila Solidarity Network, characterized it as

11. As a result of the influx of college-licensee applicants with diverse operations, FLA created four categories of participation: category A companies are fully participating, meaning that all or most of their product lines are covered (listed above in the text); category B companies have revenues over \$50 million and have the same monitoring obligations as category A; but submit for monitoring only those facilities that produce college-licensed products (16 companies, including Land's End, Josten's, Inc., and Russell Athletic); category C companies have under \$50 million in revenues; and category D companies have under \$1 million in revenues, are located in the United States, and have different monitoring obligations geared to their smaller size (www.fairlabor.org; November 4, 2002).

12. See www.fairlabor.org (August 21, 2002).

“generally considered to have the lowest code standards and the least thorough or transparent monitoring program.”¹³

For example, whereas the FLA code (which many activists regard as inadequate) requires firms to pay workers the higher of the local legal minimum wage or the prevailing local wage and requires firms to give workers 1 day off in every 7, the WRAP code refers only to paying whatever minimum compensation local law requires and allows firms to suspend the 1 day off in 7 to meet urgent business needs.¹⁴ Moreover, WRAP’s Web site neither identifies the plants certified nor the links between them and retail endorsers of WRAP, which means that it gives consumers little guidance in making purchases.

In 1996, the Council on Economic Priorities, which for years had provided information on the social and environmental policies of companies, initiated a third monitoring initiative, the SA8000 standard. The council created an advisory board comprising NGOs, unions, and business representatives from around the world to develop a code that could be used globally and across all sectors (Leipziger 2002, 12).

The SA8000 standard is based on International Labor Organization (ILO) conventions. Its verification system is modeled on the ISO 9000 and ISO 14000 standards issued by the International Organization for Standardization,¹⁵ which are written to be “auditable” and which emphasize the role of management systems in promoting product quality and better environmental practices, respectively. The Council on Economic Priorities also created a multistakeholder agency, SAI, to accredit auditors of the SA8000 standard. As of March 2003, this group had accredited 9 international certification agencies, which had in turn certified as in compliance with SA8000 more than 200 manufacturers or business service organizations with more than 135,000 employees in 32 industries in 35 countries. In addition, 10 retailer signatories, including Avon, Toys “R” Us, Dole Foods, and several European companies, agreed to encourage certification throughout their supply chains.

Although the SA8000 standard includes a strong provision on freedom of association that calls for companies to provide “parallel means” for worker representation when governments restrict this right, it has come under criticism for the application of its system in China. Firms in China, where nearly a fifth of SAI’s certified facilities are located, cannot easily follow this provision because China prohibits independent organizing by workers. In addition, in 2000, an SAI-accredited auditor decertified two

13. “Memo: Codes Update,” Number 9, November 2001; www.maquilasolidarity.org/resources/codes/memo9.htm (May 8, 2003).

14. See www.wrapapparel.org/index.cfm?page=principles (May 8, 2003).

15. International Organization for Standardization is a nongovernmental network of the national standards institutes of 146 countries. ISO provides technical and business standards for companies around the world; www.iso.ch/iso/en/isoonline.frontpage.

plants in China after confirming that there were problems, as alleged in a National Labor Committee report and in a third-party complaint from a Hong Kong-based NGO. The head of the Chinese office of the auditor in the case admitted, "Right now, in labour-intensive industries in southern China, the SA8000 standard cannot be enforced effectively. . . . The factories always find a way around the auditors."¹⁶

The last major code organization in the United States is that of WRC. As was mentioned above, USAS—viewing FLA as overly influenced by its corporate members—pressured universities to join WRC instead. By August 2002, more than 100 universities had done so, including some universities that were also affiliated with FLA, such as Brown University and the University of Michigan.

WRC did not invite business representatives to participate in its development. As a result, it has a stronger code than FLA, for example, calling for the payment of a living wage. More important, WRC adopted a radically different monitoring approach that rejects the notion that any auditor visiting a plant once or twice a year could verify that a single plant, much less a corporation with hundreds or thousands of suppliers, was "in compliance" with its code. Instead, WRC relies on a complaints-based system of investigating violations reported by workers or local NGOs. This places it in the position of a mediator that seeks to resolve problems that arise between workers and management—hardly the protectionist role that some critics of the organization feared it would play under the influence of its union allies.

In addition to these multistakeholder initiatives, NGOs and international organizations have responded to the demand for verification of labor standards by developing information-gathering and reporting capacities. Some NGOs have entered the social audit business in competition with the traditional accounting firms. For example, Verité is an NGO established in 1995 to independently monitor working conditions for firms through human rights inspections of supplier factories worldwide, particularly in China and Asia, where its founder has particular expertise. Verité was accredited under FLA, but reportedly decided to withdraw from that activity in 2002. It had also been seeking SAI accreditation, but like other NGOs, it has been frustrated by the technical requirements of that organization's management systems approach. Although paid by the companies that hire it, Verité claims it maintains its independence by diversifying its funding sources and by keeping its fee-for-service revenues to no more than 25 percent of total revenues.¹⁷

16. *BusinessWeek*, October 2, 2000; and "Codes Memo: Number 8," Maquila Solidarity Network, August 2001; www.maquilasolidarity.org/resources/codes/memo8.htm#a (May 8, 2003).

17. This goal is stated on the Web site (www.verite.org), but no budget documents are provided online to show whether or not it has been achieved in practice.

In Europe, the Ethical Trading Initiative, a collaboration between activists and companies with initial funding from the UK government, and the Clean Clothes Campaign, a pan-European initiative based on coalitions of consumer organizations, trade unions, human rights, and women's rights organizations, have focused primarily on information gathering and experimentation with pilot projects to identify best practices in monitoring and verification. The Clean Clothes Campaign's Dutch chapter developed a monitoring and verification mechanism called the Fair Wear Foundation, which it launched in the spring of 2002.

Other information-gathering and voluntary reporting initiatives include the Global Sullivan Principles and the UN Global Compact, which rely on broad principles rather than detailed commitments and which require companies to report annually on their progress in achieving these principles. Neither involves external monitoring or verification, however. The Global Reporting Initiative is still another effort to develop general principles to guide companies in meeting the growing demand for company reports on social and environmental issues in a more consistent and transparent fashion, but again without external verification.

In sum, the increased demand for standards initiated by the human rights vigilantes in the 1990s produced a supply response beyond what any activist could have possibly imagined: a plethora of codes and monitoring groups competing in the market for standards.

Competition among Codes—A Race to the Top?

Economists usually find virtue in competition. Competition pressures firms to produce what consumers want at the lowest price and creates diversity in products as different competitors fill niches in the market. But economists do recognize that in some cases, it is better to have a monopoly than competition—one national government, one set of laws, one air traffic control system, patents for new inventions.

When we began analyzing the market for standards, we thought that having a single labor code and monitoring organization would work better than having a group of competing codes and organizations. We feared bad standards would drive out good ones. Companies that failed to meet FLA, SA8000, or WRC standards would create their own organization and confuse consumers by claiming that yes, they too were improving conditions when in fact they were doing little. The proliferating number of codes and certification groups risked consumer confusion and frustration (Freeman 1998; Liubicic 1998). It also risks being costly for plants that have to implement different codes.

We were mostly wrong. So far, competition among monitoring agencies has improved the market for standards (Sabel, O'Rourke, and Fung 2000). To be credible with activists and consumers, firms have improved codes

and given monitoring to independent groups rather than weakening standards. Competition has produced a new professionalism in the business of monitoring compliance with codes of conduct. Without competition from WRC, FLA might never have moved from being a fox-in-the-chicken-coop organization to a genuine verifier. Without FLA, WRC might never have been able to work with firms as effectively as it has in some cases.

Perhaps the right analogy for the competition among monitoring agencies is the market for guidebooks for restaurants (or the market for financial market analysts, discussed in chapter 2). There are many such guides, and though some may sell good reviews to restaurants rather than give honest reviews, competition has worked against dishonest reviews. Guidebooks build a reputation among consumers. Some specialize in “cheap eats.” Others identify four-star restaurants. Those that provide bad information can lose market share. Those that provide good information can gain readers relative to their competitors.

The restaurant guide analogy falls short in one respect, however. Unlike a café owner, the factory owner bears the direct costs of verification. Some factories report “monitoring fatigue” from having to submit to often duplicative efforts. Some form of mutual recognition, at least among initiatives that have credibility, could be useful in reducing compliance costs for plants and information-gathering costs for consumers.

What Is in a Corporate Code?

Companies prefer that codes of conduct not be too demanding, because it is more likely that a subcontractor or their own plant will violate a strong code than a weak one. Activists want strong codes to prevent firms from labeling products as “sweat-free” when they make only superficial changes in their modes of operation. The most divisive issue in the content of codes has been whether to include a living wage—one that allows workers to have a minimally decent standard of living.

The idea of a living wage appears in the preamble of the ILO’s constitution, dating to 1919, and it resonates with many people. But defining a living wage that fits a broad array of different circumstances around the world is difficult and controversial. Living standards depend on the number of workers in a family, the availability of public services in a community, and the goods and services that a society considers normal. One 1999 study by a group of Columbia University graduate students, for the National Labor Committee, calculated that a living wage in El Salvador would be three to four times the legal minimum wage in the country, in part because it included such things as health care and child care that many workers do not have even in the United States (Connor et al. 1999).

In response to these competing pressures, some groups have included a living wage in their code of conduct; others have not. The SA8000 code includes a living wage, with guidance on how to measure it in

different countries. WRC includes a living wage as part of its code, but it has postponed implementing that provision pending research on how to measure living wages. In its first report responding to a complaint of code noncompliance by a Nike contractor in Mexico, WRC concluded that some wages were inadequate to meet basic needs but that “in the absence of a workable and recognized standard for calculating a living wage on a country-by-country basis, the WRC regards this conclusion as preliminary.”¹⁸ FLA and WRAP standards do not include a living wage nor do most private corporate codes.

The other difficult area in codes of conduct is freedom of association in countries where the state restricts this right. The biggest problem is China, which recognizes only the Communist Party–run All-China-Federation of Trade Unions and represses independent union organizing (*Washington Post*, October 15, 2002, A1). The easiest way to comply with a freedom-of-association standard would be to refuse to operate in China, but withdrawing from the Chinese market would not improve workers’ rights in that country.

The FLA code calls on firms to “recognize and respect the right of employees to freedom of association and collective bargaining.” But the FLA charter also has special country guidelines for such countries. These guidelines set as a principal FLA goal “to promote and encourage positive change in these countries so these standards become fully recognized, respected and enforced.”¹⁹ The charter calls on member companies to seek out suppliers that recognize these rights and that will not “seek the assistance of state authorities to prevent workers from exercising these rights.” SA8000, by contrast, requires employers to “facilitate parallel means of association and bargaining” when local law restricts these rights. Reebok, Levi Strauss, and other companies are also experimenting in China with workers’ rights training, health and safety committees, and other means of achieving this goal.

However, firms still risk having the authorities arrest workers or managers if they view these activities as a threat to their control. Such experimentation illustrates the value of engagement, and companies that are at least making an effort should have some space to make the best adjustments they can to the local situation.

Verification Procedures

To be more than pieces of paper, codes require a credible mechanism for verifying that firms or subcontractors are implementing them in good

18. See www.workersrights.org/report_kukdong_2.pdf (May 8, 2003).

19. FLA Charter Document, amended January 2003, p. 26, www.fairlabor.org/all/about/FLAcharter.PDF (May 8, 2003).

faith. In creating such mechanisms, several key questions need to be answered: Who does the monitoring, and what qualifications do they need? How often should plants be visited, and what proportion of a firm's supply chain needs to be covered to provide a reasonable picture of overall compliance? Who pays the auditor?

To operate compliance mechanisms, many multinationals have hired the accounting and auditing firms that they use for their financial audits, notably Ernst and Young and PricewaterhouseCoopers.²⁰ This gives the hiring firm some influence if not control over the compliance mechanism. By contrast, activists want NGOs from the relevant country or area to audit a firm's labor conditions. They argue that an NGO will be more independent than an accounting or auditing firm with a long-standing business relationship with the multinational and more likely to get workers to discuss potential code violation. However, because multinationals pay for most monitoring and because accounting and auditing firms have the resources to undertake monitoring quickly, accounting and auditing firms do the bulk of social auditing today.

Though these firms may be imperfect monitors, they do not simply whitewash their clients. This was made clear in 1997 by the different reports to Nike from Andrew Young, former US ambassador to the United Nations and former mayor of Atlanta, and from Ernst and Young. Andrew Young—with no experience in factory auditing, social or otherwise—undertook a whirlwind tour of factories for the firm and concluded that all was well. But just after his visit, the Transnational Resource and Action Center posted on its Corporate Watch Web site (www.corpwatch.org) a leaked Ernst and Young audit that concluded that Nike had violated a number of Vietnamese labor laws.

The major problem with the Ernst and Young report was that it was not a public document that allowed activists and consumers to see what it said and how it had been done. In a review of Nike audits, O'Rourke (2000) also identified problems in monitoring conducted by PricewaterhouseCoopers, particularly in the areas of freedom of association and health and safety, and concluded that the firm's methodology was biased toward management and that its auditors were inadequately trained.

FLA and SAI try to guard against these problems by requiring companies to use auditors that the organizations have certified. Both require monitors to consult with local NGOs and encourage NGOs to apply for accreditation. As of 2002, FLA had accredited local groups in Bangladesh, Guatemala, and Thailand to do monitoring for its members. FLA also accredits NGOs to monitor particular parts of its code without being

20. PricewaterhouseCoopers spun off the social auditing piece, creating an independent entity called Global Social Compliance, but there are still questions about its qualifications to do social audits. See O'Rourke (2000) and the Maquila Solidarity Network's "Codes Update" for December 2002–January 2003, 3.

expert in all of them. SAI, by contrast, had not accredited any NGO to monitor for it as of 2002, reportedly because its accreditation procedures are too complex and expensive for most NGOs to master.

Both FLA and SAI believe that the internal company changes stimulated by requirements for internal monitoring, reporting, and management systems will, in and of themselves, bring about meaningful changes in company operations. The analogy is with US civil rights legislation, which led firms to develop internal affirmative action and equal opportunity policies that led to far greater compliance with the laws than any external agency could have produced (Holzer and Neumark 2003).

WRC's approach is different. Arguing that even the best monitoring system cannot certify that even one factory is in compliance with a code 365 days a year, WRC rejected giving any type of "good housekeeping seal of approval" to companies. USAS and WRC also objected to audit plans that relied heavily on commercial audit firms and did not publicly disclose information because such plans left too much of the process under the control of corporations.

FLA—taking these criticisms as having some merit—responded in April 2002 by tightening its monitoring system. No longer will it allow member companies to present a list of factories, with a presumption that FLA would monitor those chosen enterprises. Instead, FLA staff will select factories itself, using a list of risk factors and a random sample model. It will also use a statistical model to determine the number of factories to be monitored in any year so that it can give reasonable assurances that compliance was maintained throughout the supply chain. In addition, FLA staff obtained the authority to audit companies' internal monitoring programs, which apply to 100 percent of supplier facilities, and to conduct field visits to observe the work of internal compliance staff if appropriate.

Finally, FLA rather than the member firm obtained the authority to select and pay the accredited independent monitors. Unfortunately, at about the same time these reforms were adopted, the US government cut back on its financial support for FLA. At least until other funding sources are found, FLA will have to cut back on the planned number of factory visits (Maquila Solidarity Network, "Codes Update," December 2002–January 2003, 3–4).

Disclosure and Transparency

Firms want to monitor compliance with their codes of conduct so that they can identify and alleviate problems before the public learns about them, which would risk losing some sales. Activists want access to information about poor working conditions so they can generate consumer interest and pressure firms to improve matters more quickly. There is thus an intrinsic conflict of interest between firms and activists over disclosing the results of audits. No firm wants to pay for a social audit that

trashes it in public. No activist can give credence to a secret audit that it cannot independently verify.

Wrestling with these competing pressures, FLA adopted a proposal in 2001 from board member Michael Posner of the Lawyers' Committee for Human Rights to disclose more information about its audits. FLA agreed to publish factory-specific information on working conditions and remediation efforts in each independently monitored facility, withholding only the name and address of the facility. In addition, FLA agreed to prepare an annual report on the global compliance record of each member company. Responding to complaints that FLA would still be certifying companies as sweat-free on the basis of having independently monitored only a small proportion of factories, FLA executive director Aurret van Heerden emphasized that FLA "will consider what form of recognition should be given to companies which achieve solid compliance records," but with no commitment on timing (FLA press release, February 4, 2002).

The WRC model—requiring complete disclosure of plant locations and information on conditions in them, backed by a system of local NGOs prepared to receive workers' complaints—is anathema to corporations. Nike, in particular, objected to the unwillingness of USAS to include corporations in the negotiation of WRC principles and what it called "gotcha monitoring."²¹ Because Nike felt very strongly that the WRC approach was inimical to its interests, it ended its licensing agreements with Brown and the University of Michigan and cut off corporate contributions to its chief executive Phil Knight's alma mater, the University of Oregon, after these universities joined WRC.

Since then, both Nike and WRC have shown a willingness to compromise. In January 2001, Nike and the University of Michigan reached a seven-year licensing agreement that bound Nike to abide by the Collegiate Licensing Company's code of conduct, to provide annual "summary reports" on factory locations and enforcement of that code, and to conduct internal and external monitoring. Shortly thereafter, Nike cooperated with a WRC investigation team when the organization received its first complaint of alleged code violations at a Mexican factory (Kukdong) that supplied college-licensed apparel for Nike, as well as other apparel for Reebok. WRC investigators found that further remedial actions were needed, but WRC praised the companies and factory management for taking "significant constructive steps" to remedy the problems found in the investigation.²²

Whatever the monitoring mechanism used, outside parties also need to "monitor the monitors" to be sure they are doing their job and to resolve conflicts over the validity of particular reports. One way to ensure this is

21. See www.nikebiz.com/media/n_uofo.shtml (September 1, 2000).

22. See www.workersrights.org/report_kukdong_2.pdf (May 8, 2003).

by publishing reports with the details of factory locations. Though competition among monitoring groups has produced greater transparency and disclosure in monitoring than seemed possible in the mid-1990s, such efforts still fall short of complete disclosure. Because WRC responds to complaints, it has taken the lead in disclosure and has won plaudits for its reports on factories in Indonesia and Mexico. But it has no way to get into factories to educate workers about their rights or about WRC grievance procedures.

FLA's decision to disclose factory-specific information on conditions is a step toward transparency, though it still keeps its list of facilities confidential. FLA's use of independent monitors has improved its verification procedures, but the organization has not adequately responded to criticisms of the auditing firms it has accredited. SAI publishes a list of certified facilities but keeps its audit reports confidential and also does not publish summaries. It has increased transparency, however, by deciding to publish information on the resolution of third-party complaints challenging plant certifications. WRAP remains the least transparent and the least credible, with the weakest code and no third-party complaint mechanism.

One suggestion for improving the credibility of monitoring, to which we will return below, is to have independent mediators work with activists and monitoring groups to help them resolve disagreements about factual matters and whether or not particular workplaces violate codes and how much they may have improved in an effort to meet codes (Zack 2003). A challenge facing all the monitoring groups is how to attract new corporate members and thereby expand their coverage.²³

The Missing Element: The Voice of Developing-Country Workers

In the end the only ones who can stand up for workers' rights are workers themselves.
—Medea Benjamin²⁴

If workers in LDCs could freely form trade unions or other independent organizations to improve working conditions, antisweatshop campaigns would operate much more effectively. Workers can provide the day-to-day scrutiny of facilities that no outside group can do—be it an NGO, government inspector, or top manager (Frost 2000; Bernard 1997). Workers are the best judges of the value of improved working conditions and of

23. For a broader and more detailed update on where the various monitoring efforts stand, see the year-end review in "Memo: Codes Update," no. 13, December 2002–January 2003 at www.maquilasolidarity.org.

24. *Human Rights Dialogue* (Carnegie Council on Ethics and International Affairs), series 2, no. 4 (Fall 2000): 7.

the wage that they can gain through bargaining—a wage that improves their living standard without risking loss of employment. Having activists in advanced countries intercede for workers is a second-best alternative to workers defending their own rights, negotiating with management on appropriate standards, and jointly monitoring implementation.

Unfortunately, antisweatshop campaigns to date have made little headway in empowering workers themselves. Corporations concerned with standards often leave union rights out of their internal codes of conduct (International Labor Office 1998b; Varley 1998). The WRC, FLA, and SA-8000 codes include respect for freedom of association and collective bargaining rights, but implementing these provisions is difficult. If there is one thing most businesses do not want, it is a strong union in their workplace because this shifts authority and revenues from owners to workers. The governments of many LDCs, including China, oppose freedom of association because unions are an independent source of power that could threaten the rule of a single party or narrow elite. These attitudes make unionization difficult to attain, even in countries that nominally accept the ILO's standard for freedom of association. At the same time, as we have seen in chapter 2, consumers are less concerned about the freedom to unionize than other issues, making it hard for activists to mount campaigns focused on organizing rights.

Campaigns in which unionism was a key issue, as with the Phillips-Van Heusen plant in Guatemala, have usually not been sustained for long.²⁵ Firms that accede to other demands often do not accept demands for organization. At the Gap's Mandarin supplier factory in El Salvador, the struggle began when management fired union organizers to prevent workers from forming a union. After the campaign publicized violations in the company's code of conduct, the Gap worked to improve conditions and even guaranteed a minimum number of orders, offsetting orders from elsewhere that had been lost because of negative publicity (Varley 1998, 302). The Gap arranged for independent monitoring, but there is still no union at that plant. If the results are sustained, however, the Kukdong case, which led to recognition of the first truly independent union in Mexico's maquila sector, could lead to a more hopeful conclusion.

Reaching out to and strengthening NGOs and workers' organizations in LDCs is important as well because antisweatshop campaigners need workers' groups in these countries as allies in the labor standards battle. In their analysis of transnational advocacy groups, Keck and Sikkink (1998) find that campaigns are far more likely to succeed when the outside activists have allies within the targeted country. For instance, vocal support for international economic sanctions by black leaders in South Africa,

25. The plant closed not long after the union was recognized because Phillips-Van Heusen cut orders from the plant, supposedly because of a drop in sales. Critics questioned why orders could not have been cut at a different, nonunionized facility (Varley 1998).

even though they were the ones expected to suffer the most economic pain, was an important factor in the success of the anti-apartheid campaign. Both USAS and WRC emphasize the need to engage and strengthen local workers' organizations and NGOs by providing financial and technical assistance, but they have limited resources for actually doing so.

Moreover, although USAS, WRC, and the National Labor Committee have close ties to trade unions, in general there are serious tensions between the vigilante groups and unions (Compa 2001). Antisweatshop NGOs in developing as well as in advanced countries are usually run by middle-class activists. They are accountable to consumers, funders, and other Western supporters but not to the workers whose well-being they seek to advance. Some trade unionists fear that the vigilantes' demands for corporate codes of conduct and independent monitoring create a weak substitute for unions. On the other side, the NGOs feel that they can accomplish something, whereas it is unrealistic to expect free and independent unions to operate in many countries of the developing world.

Just as determining "what workers want" is critical to improving labor laws and workplace governance in the United States and other advanced countries (Freeman and Rogers 1999), antisweatshop campaigners and multinationals seeking to improve conditions will be able to do so more effectively if they involve workers in LDCs and ask them what they want. For example, in a September 1998 workshop organized by the British-based NGO Labor Rights Network (the NGO representative to the Ethical Trading Initiative), representatives from LDCs stressed the importance of involving both local NGOs and unions in antisweatshop campaigns to ensure that campaigns address *local* priorities and interests. They agreed that while

codes could be useful as a means of exerting leverage on management, the key issue was workers' own level of organisation and ability to carry out collective bargaining. . . . The ideal combination is for NGOs to play a supporting role by providing training and services and campaigning for the respect of trade union rights, and encouraging more traditional unions to take up previously unrepresented groups and gender issues.²⁶

Labor Rights in China, a Hong Kong-based NGO, has proposed a monitoring model in which workers would be the principal monitors. This organization recommends that NGOs or other outside groups train workers on their rights and how to register complaints about violations (Jeffcott and Yanz n.d.). The role of external verifiers would be to investigate complaints and to cooperate with workers and management on remediation. Other Hong Kong-based labor rights groups are working with American

26. See the report by the Catholic Agency for Overseas Development at www.cafod.org.uk/policy/policyviews.htm (May 8, 2003).

health and safety experts in factories in southern China to train workers on health and safety issues and, in the process, to inform them about their basic rights. In a case that will be discussed further in chapter 6, Asia-based NGOs worked with Reebok in 2002 to organize secret-ballot elections for union leaders at two footwear factories in southern China.²⁷

These efforts reflect a belief that workers themselves are the most effective and efficient monitors of working conditions. Using workers rather than outside firms to monitor conditions should also be less expensive for firms than hiring expensive auditors. Relying more heavily on workers to verify conditions could also be a mechanism for encouraging mutual-recognition agreements among the various external verification agencies, thereby reducing monitoring fatigue in plants with multiple buyers. In commenting on the election experiment in China, Reebok's director of human rights programs, Doug Cahn, echoed WRC concerns about external monitoring:

We have inspections of factories, both announced and unannounced. But you just don't have the assurance that things will be the same the next day. Factories in China are incredibly sophisticated at finding ways to fool us. The best monitors are the workers themselves. (*Financial Times*, December 12, 2002, 14)

27. "Memo: Codes Update," no. 13, December 2002–January 2003; www.maquilasolidarity.org.