

Corporate Social Responsibility and Employment Standards in the Maquiladoras

by

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BA, Niagara University, 2006

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Supervisory Committee

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Abstract

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This thesis provides a historical overview of the conventional business model for CSR as well as a more critical political economy perspective. It draws on critical scholars to help advance the understanding of the legitimating role that CSR plays in advancing private authority as a significant method of regulating corporations and the global political economy through flexible and nonbinding regulations as an alternative to state legislation. This thesis explores the development and implementation of Nike's Codes of Conduct in contract apparel factories in the Maquiladoras in Mexico. Specifically, it investigates the application of Nike's Code of Conduct to determine if the company is adhering to its own CSR policies and initiatives by focusing on Nike's internal reports. It concludes that corporate self regulation produces limited results for alleviating poor working conditions for Nike apparel contract workers in the Maquiladoras.

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Chapter 1: Historical Overview of Corporate Social Responsibility

Section One: Introduction to Thesis

The mid to late twentieth century saw a shift in labour processes from Fordism to a more flexible model of production. Throughout the 1970s the workplace transformed from Fordism to flexible accumulation, which Harvey (1990) describes as, “characterized by the emergence of entirely new sectors of production, new ways of providing financial services, new markets, and above all, greatly intensified rates of commercial, technological, and organizational innovation” (p. 147). As labour markets were being fundamentally restructured the number of export processing zones (EPZs) significantly increased. EPZs are special geographical zones that operate outside of regular customs regulations with the main purpose for manufacturing products for export (ILO, 1998).

In an era where multinational corporations (MNCs) dominate the world economy, political authority has shifted from state regulation to a more overarching global governance structure. As an integral dimension of this global governance, corporate social responsibility (CSR) has emerged as a dominant method of regulating corporations and the global political economy through more flexible and non-binding regulations that complement flexible production (Cutler 2007).

Since the emergence of CSR in the 1950s, researchers have disagreed about its definition and efficacy. Though difficult to define CSR is based on the idea that, in addition to economic profit, corporation executives should take social and environmental concerns into their investment and organizational decisions. While the environmental impact of a business is an integral part of CSR practices, it is beyond the scope of this study which will focus solely on employment conditions.

Due to increasing pressure on the international stage, governments around the world compete for foreign direct investments (FDI) from MNCs. This competition has sometimes led national governments, especially those in the Global South, to try to create as favourable conditions for MNCs as possible. As manufacturing trends have shifted toward subcontracting from different suppliers, rather than the previous fixed capital investment model, countries compete to provide the best incentive packages to attract FDI (Lim & Philips 2007). Some methods to attain these conditions are to refrain from implementing or to relax domestic laws and regulations that can be costly for corporations to navigate, such as environmental or social concerns, or to step back from strict enforcement of these laws. However, corporate scandals have exposed poor working and employment conditions and place pressure, from consumers, organizations and governments, on MNCs to conduct their business in a more ethical manner. In response, corporations have often adopted CSR policies as a means to counter these allegations and demonstrate that they are indeed committed to a broad range of social and ethical goals in addition to profit.

This thesis will explore the following questions: Why has CSR developed, and is CSR an effective mechanism for improving employment standards in EPZs? It will answer these general questions by focusing on this specific question: How has Nike responded to pressure to adopt CSR, and what effect has this had on current employment standards in apparel factories in the Maquiladoras? Nike has been chosen because it is an important player in the athletic footwear and apparel industry and has been for more than twenty years. Also, following expositions of poor working conditions in their subcontractor factories in the late 1980s, Nike developed extensive CSR policies. This

question will be explored by discussing the development and implementation of Nike's Codes of Conduct in contract apparel factories in the Maquiladoras. The similar EPZ style of manufacturing established in Mexico is commonly referred to as Maquiladoras. While technically Maquiladoras are not defined as EPZs, they have been constructed very similarly and reflect many of the same characteristics such as to decrease unemployment in the northern border region of the country, attract FDI and diversify Mexico's exports. Though not exactly congruent with EPZs, examining the Maquiladoras offers a practical context for a critical investigation of CSR. Further, due to the unique position women play in the apparel industry in Mexico, special attention will be placed on the effects of gender.

At the theoretical level, this thesis will juxtapose literature on CSR from a business and economic perspective with a more critical analysis from international relations and international political economy literature. At the empirical level, this thesis will juxtapose the language of Nike's Code of Conduct with accounts of workers from apparel factories in the Maquiladoras. This thesis will assess the application of Nike's Code of Conduct to determine if the company is adhering to its own CSR policies and initiatives. I choose to critically explore the development and implementation of Nike's Codes of Conduct by focusing on the company's internal reports, including those produced by the two monitoring companies (Ernst and Young and Pricewaterhouse Coopers) that it hired to audit the factories. I am aware of other academic literature and third party monitoring reports, although I decided to take a narrower approach and focus my research on discrepancies using the company's codes of conduct and what is reported to be happening in factories by Nike's own monitoring processes (reports from

companies it hires). These are reports that Nike has responded to in detail. Time and space limited my ability to expand my investigation of working conditions and practices in factories by drawing on third party audits and the wide range of academic and NGOs literature on the topic. This is because these latter reports do not directly focus upon Nike's employment standards but have looked at other matters such as collective bargaining and union relations. Thus, I choose to focus more narrowly on the development of Nike's Codes of Conduct and the initial implementation of these codes by critically examining the findings in audits conducted by the two main firms hired to audit Nike's factories.

This thesis is organized in the following manner. Chapter one examines CSR as a regulating mechanism from business and a critical international relations and international political economy perspective. This chapter provides insight to the key debates in the literature and describes the historical overview of CSR.

Chapter two explores EPZs as an example of flexible production. This chapter provides a historical overview of EPZs and explains the cost benefit analysis of establishing EPZs as well as the key debates surrounding zone development. It also specifically looks at the Maquiladoras in Mexico and describes the apparel industry focusing on the position of women within the zones.

Chapter three will examine Nike as a case study to investigate whether corporate based private authority is an effective mechanism to improve employment standards with specific focus on the contract apparel factories in Maquiladoras in Mexico. The chapter will investigate CSR policies that focus on employment standard issues for factory workers. By outlining Nike's CSR policy and presenting evidence from the Maquiladoras

factories, it will be determined to what extent Nike adheres to its CSR Code of Conduct. Further this chapter will demonstrate any discrepancies found between Nike's policies and factory working conditions.

Section Two: Historical Overview of Corporate Social Responsibility

This chapter will begin by analyzing the business case for CSR by providing a historical overview of the key debates in the literature. The ambiguity surrounding the use and application of CSR along with its effectiveness are major challenges to the internal coherence of the CSR concept. The business model for CSR seeks to balance the economic bottom line with good citizenship. The chapter will then address the more critical views of CSR from international relations and international political economy literature. Critical scholars put forth the case that CSR is a mechanism that enables corporations to evade costly labour and environmental standards, and respect for human rights, rather than as an expression of good citizenship. In some international relations literature, CSR is presented as a form of private authority which is a dimension of the move to flexible production as a mode of capitalist organization. The emergence of EPZs in the 1950s presents a useful context for a critical assessment of CSR precisely because EPZs expose the ambiguities of CSR and the claims of its proponents to good citizenship in a production environment designed, at least partially, to shield capitalist enterprise from forms of state regulation.

The historical overview provided in this chapter will become important for discussing CSR throughout the following chapters. The impact of CSR initiatives on workers can be significant, by offering the promise of more protection for workers in terms of wages, limited working hours, and occupational health and safety standards.

This is especially pertinent in the Global South where workplaces have historically suffered from low employment standards and poor working conditions. The workplaces that will be the focus of chapter two are those clothing factories in Maquiladoras in Mexico. CSR is not only adopted by companies in the Global South. The European Union is at the forefront of developing and implementing CSR initiatives, and a large portion of research centered on CSR takes place in the United States (OECD, 2001).

In some cases, CSR policies have been applied to the entire global supply or value chain. Ramirez and Rainbird (2010) state that GVCs reflect the “changing nature of the insertion of economies in global production and distribution processes” (p. 699). Many MNCs hire subcontractors for their manufacturing, and as such, the firm’s activities span across multiple countries leading to a fragmented production processes. Therefore the company itself may not have direct oversight over parts of the production. Global value chains (GVCs) represent the entire production process from resource extraction to finished product, including design, production, marketing, distribution and support to the consumer (OECD, 2004). Some CSR policies explicitly state that they should apply to this entire chain including subcontractor productions. As firms subcontract different components of the production process they give up sovereignty to the sub-contractors keeping them at an arm’s length. In exchange for giving up this sovereignty the firm retains the maximum amount of flexibility over its production. Often this undermines protections for labour, human rights and the environment and is highly debated in management and political economy literature. Tengblad and Ohlsson (2009) note that globalization is generating more individualistic business systems based on opportunistic relationships as a result of competition for the lowest cost structures. Due to this, Lim and

Philip (2007) encourage MNCs to move to more of a collaborative partnership where firms work closely with suppliers and build relationships based on similar ethical values instead of pitting them against one other. Proponents of CSR claim that it is a mechanism through which corporations make claims to ethical behaviours and values in an effort to legitimate their decision making.

Paul Haslam (2007) argues that CSR is a vague concept that is founded on the idea that “maximizing shareholder value is not, in itself, an adequate measure of a firm’s responsibilities, and that firms should move beyond the focus on shareholders to consider the impact of their activities on ‘stakeholders’ ” (p. 271). Cragg Wesley (2001) describes stakeholders as anyone, be they a group or an individual that could be affected by the company’s activities. Defining CSR is difficult because both practitioners and scholars debate what corporations should ultimately be responsible for (Crane, McWilliams, Matten, Moon, & Sigel, 2008). Should MNCs only be held accountable to their shareholders? Or, should they also be concerned with the well being of all stakeholders and the environmental impact of doing business as well?

From Fordism to Flexible Production

The structure of the labour markets changed significantly in the latter half of the twentieth century. David Harvey in *The Condition of Postmodernity* (1990) described Fordism as the process of manufacturing mass-produced goods in large volumes by using highly productive machinery. From about 1965 to 1973 serious problems within the labour markets were becoming evident, due to the rigidity of large-scale, long term mass production systems. In response to these challenges a shift occurred away from Fordism to what Harvey has called flexible accumulation. He writes that flexible accumulation

transformed the workplace by weakening labour, environmental and human rights protections for workers. According to Harvey, flexible accumulation resulted in high levels of “unemployment, rapid destruction and reconstruction of skills, modest (if any) gains in the real wage, and the rollback of trade union power- one of the political pillars of the Fordist regime” (p.150). However, due to competition, technological change and local and global economic trends, businesses were unable to keep up the high levels of worker protection, but rather sought to access other labour markets.

Due to increased competition from Western Europe and Japan, the pressure to lower production costs became significant. With fewer trade barriers, more open borders and enhanced communication technology, one way to achieve that was by moving production to areas with lower wages and less state control over labour relations, such as South-East Asia and other countries in the Global South. This weakened the link between the interest of the worker and the interest of the company, and also dismantled the control that the state had over the regulation of labour standards, benefits, pensions and seniority. While during Fordism, the state encouraged corporations to provide its workers with decent benefits, this became less important as the companies were able to move their production to where the costs were lower (Harvey, 1990).

This led to a more fragmented manufacturing process. Technological change, communication and transportation technology enabled the development of “just in time” production, where small orders are given to sub-contractors to be completed according to market demand. In general, the flexible accumulation model operates in a more flexible labour market with fewer lifetime employees and more temporary sub-contractors, which provides corporations with more mobility as entrenched links between corporations and a

fixed location are no longer necessary. For workers this means less job security, lower wages, more short term contracts, less collective bargaining power for better working conditions or wages, and less influence of the state, either in making legislation or by enforcing it (Harvey, 1990). While this lowers production costs allowing corporations to become more competitive, it also creates conditions for worker exploitation.

Furthermore, marginalized groups, such as women, become even more vulnerable to exploitation. Later, this chapter will move to describe the genderfication of the Maquiladoras in more detail.

The following section explores the history of CSR by looking at shifting debates in the academic literature since the 1950s. The main debates have moved from focusing on the definition of CSR, towards discussing evaluation, measurements and efficacy of CSR, to literature that critically engages with the very notion of CSR, and whether it is a legitimate alternative to state regulation.

Emergence of CSR in the 1950s and 1960s

Although many argue the modern era of CSR began in the 1950s, it is important to note that some CSR elements of modern CSR policies are evident in examples of philanthropy by business leaders dating back to the 1800s. For example, established in 1844, the Young Men's Christian Association is an early example of a company that contributed to social welfare programs and worked closely with railroad companies to support isolated workers (Heald, 1970). Additionally in 1946, the Dean of the Harvard Business School, Donald K. David, made a profound and influential speech to incoming MBA students about the responsibilities businesses have beyond pleasing the shareholders (Spector, 2008).

Howard D. Bowen's 1953 publication titled, *Social Responsibilities of the Businessman* is considered by many scholars to be the starting point in modern day CSR policies, though initially termed social responsibility. Bowen was a pioneer in CSR literature, and one of the first to define social responsibility as "the obligation of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society" (Bowen, 1953, p.44). His work focused on the doctrine of social responsibility and he argued that social responsibility must be a necessary component for combating social problems created by business activities in the future. Due to his significant contributions in the field, Carroll (1999) suggested Bowen be coined the "Father of Corporate Social Responsibility" (p. 270).

William C. Frederick contributed to the literature in the 1950s by identifying three main ideas about: the idea of corporate managers as public trustees, balancing competing claims to corporate resources, and the acceptance of philanthropic support of good causes. Frank Abrams, another important writer in the 1950s, encouraged executives to balance both shareholder and public responsibilities (Frederick, 2008). The decade ended with companies actively engaging in philanthropy, and more discussions emerging about social responsibility. At the time, the companies providing the most social benefits were the American Red Cross and the YMCA (Carroll, 2008).

In the 1960s, scholarly literature on CSR conditioned to grow with writers focused on definitions of responsibility and describe what it included. In addition, companies continued to engage in philanthropy and slowly expand business practices to include a measure of social responsibility. Keith Davis presented his own definition of

social responsibility as: “businessmen’s decisions and actions taken for reasons at least partially beyond the firm’s direct economic or technical interest” (Davis, 1960, p. 70). In his article, *Can Business Afford to Ignore Social Responsibilities?* Davis argued that social responsibility is a vague idea that can be described in multiple ways. Davis stated that responsibility and power go hand in hand and that business executives must reconsider their role in society. Further, he was ahead of his time when he elucidated that social contributions could be profitable. He asserted that in the long-run responsible business decisions could result in positive economic gains (Davis, 1960).

William C. Frederick (1960) contributed to the debates by defining the necessary requirements for formulating an adequate theory about social responsibility. He argued that social responsibility for businesses means “that the economy's means of production should be employed in such a way that production and distribution should enhance total socio-economic welfare” (Frederick, 1960, p. 60). Joseph W. McGuire (1963) acknowledged the nebulous definitions surrounding social responsibility and put forth his own broader definition: “the idea of social responsibilities supposes that the corporations has not only economic and legal obligations, but also certain responsibilities to society which extend beyond these obligations” (p. 144).

Walton (1967) created a definition of social responsibility as, “the intimacy of the relationships between the corporation and society and realizes that such relationships must be kept in mind by top managers as the corporation and the related groups pursue their respective goals” (p. 18). He added to the literature by incorporating voluntarism instead of coercion and arguing that not all “citizen” costs are financially measurable. Again the mention of CSR as being a voluntary self regulation form of authority is

strongly argued by proponents of the business case for CSR. Walton also described CSR as a continuum that ranged from minimum responsibility to maximum responsibility.

Manne and Walich (1972) took this idea one step further and argued that social responsibility should only include voluntary acts. Manne stated “another aspect of any workable definition or corporate social responsibility is that the behavior of the firms *must* be voluntary” (Manne and Wallich, 1972, p. 5). As described above, the demand for CSR to be a self-regulating and voluntary form of authority began to take precedence in the 1960s, and this element remains a key component of the definition today.

In stark contrast to Davis (1960), Frederick (1960), Walton (1967) and McGuire (1963), Milton Friedman strongly disagreed with the concept of social responsibility and called it a “fundamentally subversive doctrine” (Friedman, 1962, p. 133). In his 1962 publication *Capitalism and Freedom*, he argued that “few trends could so thoroughly undermine the very foundation of our free society as the acceptance of a social responsibility other than to make as much money for their stockholders as possible” (p. 133). Friedman’s support of the shareholder value theory (SVT) is founded in free-market economics and ownership rights. It states because shareholders are owners in the company, executives are responsible for their best interest.

Expansion of CSR in the 1970s and 1980s

The 1970s began with the work of Morrell Heald titled “The Social Responsibilities of Business: Company and Community, 1900-1960.” Heald (1970) did not offer a new definition, but instead he explored social responsibility from the viewpoint of business executives. He asserted: “the meaning of the concept of social responsibility for businessman must finally be sought in the actual policies with which

they were associated” (p. iv). He found business executives were primarily focused with philanthropy and community planning. Harold L. Johnson conducted a study in 1971 exploring social responsibility from a scientific perspective. He provided four different definitions of social responsibility and analyzed each of them¹. He argued that a socially responsible company is one that manages a variety of interests simultaneously such as employees, suppliers, local community and others. (Johnson, 1971, p. 50).

The Committee for Economic Development (CED) published an influential book titled *Social Responsibilities of Business Corporations* in 1971. It reflected a practitioner view because it was comprised of articles by business people and educators. The CED recognized businesses’ broad responsibilities to society by stating, “Business enterprises, in effect, are being asked to contribute more to the quality of American life than just supplying quantities of goods and service. In as much as business exists to serve society, its future will depend on the quality of management” (CED, 1971, p. 16). The CED put forth a “three concentric circles” approach that consists of an inner circle, intermediate circle and outer circle. The inner circle includes an economic function, intermediate circle consists of responsibility to the economic function with awareness of social values and environmental conservation, and the outer circle outlines business’s responsibility to improve the social environment on a broader scale.

¹ Johnson’s first approach looked at social responsibility in business as the pursuit of socioeconomic goals through the elaboration of social norms (p. 51). His second view of CSR states that businesses carry out social programs in order to add profit to their organization (p.54). Johnson’s third approach assumes that a responsible manager is one who is interested in his own well being as well as the other members of the enterprise and fellow citizens (p.68). Lastly, his fourth view of CSR ranks the enterprise’s goals in order of importance (p. 73).

George Steiner was another important author in the 1970s who offered his own definition of social responsibility building from both Davis (1960) and Fredrick (1960):

business is and must remain fundamentally an economic institution, but...it does have responsibilities to help society achieve its basic goals and does, therefore, have social responsibilities. The larger a company becomes, the greater are these responsibilities, but all companies can assume some share of them at no cost and often at a short-run as well as a long run-profit (Steiner, 1971, p.164).

He contributed to the debate by advancing models and criteria for determining CSR responsibilities of business.

Another important contributor, Dow Votaw (1973), saw value in CSR but reiterated the concern many other writers expressed, that CSR is important but that “it means something, but not always the same thing, to everyone” (Votaw, p. 11). Lee Preston and James Post (1975) acknowledged the vagueness of the current CSR definitions in their book *Private Management and Public Policy: The principle of public responsibility* and tried to narrow the scope of the definition by offering a solution in way of a new term “public responsibility”. Their term public responsibility “is intended to define the functions of organizational management within the specific context of public policy...and provide a source of specific and concrete answers to that problem” (p. 10). In 1976, Robert W. Ackerman and Raymond A. Bauer offered new definitions to the existing CSR construct debate. They prefer the term “social responsiveness” instead of “social responsibility” because they felt the term “responsibility” insinuated an obligation

instead of placing the emphasis on performance. Bowman and Haire (1975) and Holmes (1976) conducted studies in the 1970s that examined company executives' perception of and devotion to CSR despite not having a clear definition of the concept.

In 1979, Archie B. Carroll introduced the social performance model. He suggested three necessary components to adequately define corporate social performance (CSP): a basic definition, an understanding of the social responsibility issues that exist and a specification of the strategy of responsiveness to the issues (p. 499). Carroll (1979) developed a four part framework for defining social responsibility as, "the social responsibility of business encompasses the economic, legal, ethical and discretionary expectations that society has of organizations at a given point in time (p. 500). He encouraged a movement from one category to the next and argued against scholars who separated the economic and social emphasis.

Many scholars in the 1970s sought to establish criteria to be able to effectively measure business practices. Abbott and Monsen (1979) conducted a study using a social involvement disclosure (SID) scale to analyze and investigate fortune 500 companies to learn more about CSR measurement techniques. Thomas Zenisek (1979) enhanced Walton's (1967) conception of CSR as a continuum and built a model that included four phases to try to facilitate more measurements to get more empirical studies.

In the 1980s, the focus of the literature shifted from trying to improve the definition of CSR to developing alternative frameworks focusing on new emerging related concepts such as the more comprehensive term CSP, business ethics, corporate social responsiveness and stakeholder theory (Carroll, 2008). In 1980, Thomas M. Jones

discussed the stakeholder theory in his article titled “Corporate Social Responsibility Revisited”. Jones (1980) described CSR as:

the notion that corporations have an obligation to constituent groups in society other than stockholders and beyond that prescribed by law or union contracts. Two facets of this definition are critical. First, the obligation must be voluntarily adopted; behavior influenced by the coercive forces of law or union contract is not voluntary. Second, the obligation is a broad one, extending beyond the traditional duty to shareholders to other societal groups such as customers, employees, suppliers, and neighboring communities (p. 60).

As described above and stressed by multiple proponents of CSR (Fredrick, McGuire, and Walton) the voluntary nature of CSR and its extension beyond legal standards have remained dominant themes within the literature since the formation of early definitions. The voluntary nature of corporate social obligations in CSR is a fundamental underpinning for it to remain consistent with the concept of flexible production and remain a business-driven responsibility rather than one imposed by the state. The current regulatory ethos includes this crucial aspect of the emphasis on self-regulation and the use of market mechanisms to regulate CSR obligations. This is in line with the emergence of neoliberal governance models in international institutions such as the World Bank, the International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD) which all stress self-regulation as a more efficient form of governance.

The evolution of CSR reflects other trends to extend corporate identity and behaviour beyond merely economic production into a more politically and socially aware way of conducting business. These efforts are illustrated by authors who attempted to integrate CSR with other approaches and concepts in business administration literature. Those works drew from fields as diverse as organizational management and human psychology, seeking to apply the characteristics of human behaviour to that of the corporation. For example, Frank Tuzzolino and Barry Armandi (1981) used Carroll's 1979 definition of CSR and Maslow's 1970 categorization of human needs to develop an improved method for evaluating CSR by proposing an organizational need-hierarchy framework. The authors proposed that organizations have similar criteria to meet just as individuals in the Maslow hierarchy of needs. Edwin M. Epstein (1987) provided definitions for business ethics, corporate social responsibility and corporate social responsiveness and demonstrated their similarities. His contribution to the literature was his amalgamation of business ethics and corporate social responsiveness to create the term corporate social policy process.

Carroll's 1979 three dimensional social performance model was modified by Steven Wartick and Philip Cochran (1985) in their article, "The evolution of the corporate social performance model". The authors suggested a more comprehensive framework providing a clearer distinction for each component. They suggest that corporate social involvement encompasses *principles* of social responsibility, the *process* of social responsiveness and the *policies* of issues management. In 1984, R. Edward Freeman's influential book *Strategic Management: A Stakeholder Approach*, developed a strategy and guidelines for corporate responsibility. Specifically, it described to whom

companies should be reporting and in doing so it outlined to what or to whom companies are ultimately responsible.

CSP, business ethics theory, stakeholder theory and the term corporate citizenship continued to develop through debates in the 1990s (Melé, 2008). Philanthropy had been a common aspect of corporations for decades. An important contributor in the 1990s was Donna J. Wood. Wood (1991) made many contributions to the literature by formatting Waddock and Cragg (1985) dimensions (process, policies, and principles) into three principles framed at the institutional, organizational and individual levels. Wood (1991) defined CSR as “a business organization’s configuration of principles of social responsibility, processes of social responsiveness, and policies, programs, and observable outcomes as they relate to the firm’s societal relationship” (p. 693). Wood suggested this definition also solved another existing problem surrounding the CSP model that the concept has taken on the “good” association. She said the new definition addressed this concern and permits CSP to “be seen not as something that is implicitly good in itself and ‘desirable’ for firms ‘to have’, or that is lined to particular but unspoken values, but as a construct for evaluating business outputs that must be used in conjunction with explicit values about appropriate business-society relationships” (p. 693-4). Her definition of CSR focused on the relationship between society and business and emphasizes the power struggle and between business’s responsibilities to their shareholders and society.

In 1991, Carroll defined corporate citizenship as “actively engaging in acts or programs to promote human welfare or goodwill” and focused on his pyramid of corporate social responsibility. He presented the four components (economic, legal, ethical, and philanthropic responsibilities) of his definition in a pyramid format that

ordered the economic component as the base for the others to build upon. Carroll (1991) believed when each component was considered together they constituted the whole. He stated that “the CSR firm should strive to make profit, obey the law, be ethical, and be a good corporate citizen” (p. 43). Carroll argued that the vagueness of the concept of CSR could be corrected by narrowing social responsibilities by the stakeholder theory illustrated by Freeman (1984).

In the 1980s a number of corporate ethics scandals prompted Carroll (2008) to describe the period as the ‘decade of greed and me.’ Corporate wrongdoing, apparent ethical lapses by individuals and corporations, often criminal, seemed to suggest that something was missing within corporate governance. Yet, just as business commentators and the broader public were demanding more transparency from MNCs, firms were pushing for more self-regulation. The pressure of neo-liberalism “transformed TNCs from perceived evil empires to ‘partners’ who could work with governments and non-governmental organizations (NGOs) so as to arrive at a more socially aware business environment” (Whitehouse, 2003, p. 303). In the 1990s, corporate self-regulation began replacing the traditional regulatory role of the state as a manifestation of broader structural changes in the global modes of production and neo-liberal emphasis on market-based forms of governance (Whitehouse, 2003).

Alternative Themes Emerge in 1990s

As mentioned above, ethical scandals and reports illustrating inappropriate treatment of workers by corporations gained media attention in the 1990s. Consumers expressed concern and disapproval for the social and economic consequences of companies’ actions. One of the largest scandals at the time was the Exxon Valdez oil spill

in 1989. The Exxon Valdez oil tanker hit Prince William Sound, Alaska, and spilled 10.8 million gallons of unrefined crude oil, which was the largest oil spill in North American history. This incident represents a watershed in the public awareness of how companies organize their activities and the lack of control over the damage they can cause to both the environment and the communities affected by those operations.

Consumers began demanding greater transparency from MNCs, insisting that firms adhere to ethical principles and guidelines and be more conscious of the environmental impact of business activities. Strong pressure from consumers can have significant impact on MNCs to go beyond the national laws and regulations in order to retain customer appeal (Pearson, 2007). The lack of effective monitoring and regulations of labour standards by firms and their contractors has created need for other sources of authority. Today, MNCs operate under “private authority” (Cutler, Haufler, & Porter, 1999, p. 4). Cutler et al. (1999) state that private authority exists when “an individual or organization has decision-making power over a particular issue area and is regarded as exercising that power legitimately...we stipulate that such authority does not necessarily have to be associated with government institutions” (p. 5). Therefore, CSR is reflective of neo-liberal shifts in the mode of production (deregulation, privatization and less state enforcement), structural changes in the global economy, and labour market regulation.

The volunteerism of CSR is a significant dimension of this dominant model of private governance. Consistent with the existing emphasis on voluntarism as a core component of corporate governance and CSR, in the 1990s firms established additional initiatives such as voluntary codes of conduct (VCCs) (Pearson, 2007). The term VCC refers to companies’ policy standards that describe ethical commitments such as worker’s

rights, and environmental regulations. Pearson (2007) cautions VCCs are only one element of CSR plans and because of their narrow focus on particular labour standards they are often criticized for not encompassing a wider range of responsibilities.

It is important to ask the following question: what are the motivating factors that make companies adopt CSR policies? Scholars have begun researching the business case of CSR and trying to articulate what the motivating and contributing factors are that cause a company to begin developing CSR practices. Companies strive to look attractive to their consumers, so they often generate CSR policies and reports to influence consumer purchase preferences. Simon Zadek argues that companies pursue CSR strategies to (1) defend their reputations (pain alleviation), (2) justify benefits over costs (the “traditional” business case), (3) integrate with their broader strategies (the ‘strategic’ business case), and (4) learn, innovate and manage risk (Zadek, 2000 as cited in Carroll and Shabana, 2010, p. 92).

Roome (2005) argues that CSR is seen as a part of corporate leadership and a way to develop, present and distinguish companies’ brand from competition. Pressure for companies to engage in CSR initiatives are influenced by the local framework, social demands, NGO monitoring evaluations and corporate culture. The impact of negative reporting is deepened when it exposes abuses of the very policies or practices initially promoted by the company or government. Therefore, the vulnerability of a company, is an important factor for developing CSR practices (Keck & Sikkink, 1998). Vogel (2005) suggests that some companies’ reasons to engage in CSR policies are often defensive, preventative or strategic, or are driven by a dedication to environmental or social goals.

He points out that some companies are expected to act more responsibly, while other companies have less social pressure to do so and therefore can contribute less.

Margolis and Walsh (2001) argue that there are various criteria that affect a company's decision to adopt CSR policies. The authors point out that companies often follow the logic of consequences (debate costs and benefits) or the logic of appropriateness (weighing the potential options with conceptions of the company's role). It is important to note that not all CSR practices generate economic gains. Sometimes companies develop CSR practices as a way to anticipate trends, to improve their reputation, or because of international trade negotiations. Reports show that there is often a greater cost reduction because business practices are being more closely monitored (Margolis & Walsh, 2001).

In the 1990s, support for VCC implementation by international business came from the corporate sector, development and environmental NGOs, trade unions, as well as the United Nations' Global Compact policy initiative (Jenkins, 2002). The first codes of conduct were implemented in the early 1990s by Levis Strauss, Nike, Reebok and Gap (Macklem, 2002). VCCs have become a major tool and a key driver of CSR in improving customer satisfaction (Pearson, 2007).

There is much debate surrounding the efficacy of VCCs as compared to more compulsory state regulations in international relations and political economy literature. While many companies flaunt their CSR policies in the form of VCCs, there are some difficulties in finding out exactly how effective they are. There have been many reports from international monitoring groups as well as internal firm monitoring that show violations of the codes. Therefore, it is important to look at the codes and try to examine

if they are actually improving the living and working standards for labourers in sub-contractor factories. CSR initiatives and policies have shed light on working standards, but are the factory workers actually living a more valued life? It is important to note that of course we cannot say what the conditions would have been like if it was not for CSR initiatives and policies, but it is important nonetheless to investigate how well MNCs are following their own CSR initiatives. Critics argue that the efficacy of CSR varies, and the rest of this chapter will continue to explore the key debates in the literature.

Critical scholars who examine VCCs as a form of private authority are sceptical about its usefulness to improve standards for workers because frequently the working conditions outlined in the codes are not applicable to all workers. Most VCCs have been identified to address issues for only those employees who hold formal contracts. Provisions such as: childcare, maternity and paternity leave, reproductive rights and occupational health which are necessary for women workers are rarely provided to workers in informal contracts (Pearson, 2007). It is important to note the difference between men's and women's priorities reflect the gendered obligations facing women. Women have domestic and household obligations in addition to workplace responsibilities (Pearson, 2007). These gender debates will be further detailed in chapter two.

Cutler (2007) further problematizes VCCs and CSR by investigating the "interests served by the privatization of corporate norms" (p. 208). Corporations have evolved into private associations with legal obligations to serve the best interests of their shareholders. Cutler (2006) argues that self-regulating and voluntary CSR policies have become fundamental components of modern business strategies. Proponents of CSR argue that

such policies offer the ability of supplying much-needed global public goods, which are goods that benefit all citizens in all countries of the world. In the absence of a global state these public goods go under-supplied, which is a major obstacle for the health of the public sphere (Cutler, 2007). CSR proponents argue that CSR policies can help address this governance gap. However, there is a fundamental disagreement about the nature of privately-held corporations, their social purpose and responsibility and their ability to supply needed global public goods.

Flexible Production and CSR

Rather than providing global public goods, global firms have sought more and more private authority for themselves as they compete with one another through demands for more and more flexibility in labour markets. Firms transfer production costs to their employees in the forms of “lower wages, delayed or failed wage payments, increased job insecurity, gender discrimination and other working conditions” (Wells, 2009, p. 568).

The most predominant CSR standard in factories is individual companies’ codes of conduct. Firms either hire NGOs or conduct in-house monitoring to assess the quality of the employment standards of the workers. However, Wells (2009) points out that it is challenging to obtain accurate and comprehensive data to monitor the codes of conduct when turnover rates are high and most employees are only hired on short term contracts.

Returning to *The Condition of Postmodernity*, David Harvey discusses the problems with inflexibility of large scale fixed capital investments in mass production systems. In the late 1960s as the financial burdens of the Fordist mode of production rose (e.g. high wages, pension rights, social security, etc), firms sought to restructure labour costs. This results in more contract-based and part-time work without benefits and

protections for workers. Harvey (1990) argues that the new labour structure makes it easier to exploit workers, especially women. We will revisit the labour conditions women face in chapter two when the EPZs are described in more detail.

CSR has only recently been addressed by critical scholars in international relations literature. The scholars at the forefront of this research are Virginia Haufler, A. Claire Cutler and Tony Porter who focus on self-regulation, and the emergence of private authority in international relations. The debate surrounding private authority has incorporated CSR through investigating corporate codes of conduct and case studies demonstrating the interaction between communities and companies (Haslam, 2007). Consensus has not been reached in international relations over the reason why there has been a move toward private authority. Cutler (2006; 2007) argues that the rise of more flexible, non-state regulations through codes of conduct is a natural response to post-Fordism in the global political structure. VCCs were created to take the place of more binding government regulation and legislation concerning the ethical practices for labourers.

Haslam (2007) argues that the legitimacy of private authority has been neglected and not fully justified within the international relations and economic literature. He believes that more research must be conducted to provide a better understanding of how authority is legitimized. Haslam (2007) argues that CSR can be described as a *transnational private legitimacy regime* defined as “a framework of principles, norms, and practices that enables communication, negotiation and contestation between civil society organizations (CSOs) and transnational corporations about the social impact of foreign investment” (p. 272). Drawing upon Harvey, Haslam, and Cutler, voluntary CSR

initiatives may be conceptualized as both facilitating and legitimating post-Fordist flexible accumulation. In chapter three, this critique of CSR will be developed as we look at the codes of conduct in the Maquiladoras.

Proponents of CSR try to address such criticism and to legitimize it as a way to increase financial performance. Indeed, the earlier discussion shows that for half a century scholars have been trying to demonstrate a strong relationship between CSR and the financial performance of companies (Husted and Allen, 2009; Margolis and Walsh, 2001; Griffin and Mahon, 1997). Husted and Allen (2009) reported that results are often mixed; some studies show no results while others exemplify positive or negative relationships. Cases that demonstrate a positive relationship are often weak and need more comprehensive investigation to increase the correlation between CSR practices and financial performance. The authors argued there is a greater chance for a positive correlation between CSR programs and performance when companies design CSR practices that will create a competitive advantage for the firm.

Given the inconsistent results from studies linking CSP and financial performance, companies must build their business cases for adopting CSR on more than just one motivation. Kurucz, Colbert, and Wheeler (2008) articulate the four arguments of the business case for CSR as: cost and risk reduction, profit maximization and competitive advantage, improving reputation and legitimacy, and developing win-win situations through synergistic value creation. The authors explain that companies can be involved in all four approaches at once, and therefore they are not mutually exclusive.

Kurucz et al. (2008) argue the main critiques against the business model of CSR are problems of justification. The authors explain the three main issues that arise in CSR

critiques are: the level, logic and grounds of justification. Many scholars argue the level of justification (organization and society) connecting CSP and corporate financial performance is “pointless because there logically cannot be a consistently positive relationship between these two constructs” (p. 98).

Kurucz et al. (2008) suggest there is potential for both projects of “self-creation” and “community creation” to be pursued at the same time. The difficulty with the problem of justification (economic, ethical, political, and social) to corporate executives is most often characterized as a division between ethical and economic justifications for CSR, where economic evidence is characterized as not normative. By emphasizing that companies must engage in social responsibilities in addition to business responsibilities, Kurucz et al. (2008) explain “we admit the two are distinct and separate” (p. 98). Another critique surrounding grounds for justification (positivist, anti-positivist, and pragmatist) occurs at the epistemological level. This is often called “integration dilemma” (p. 99) and unites both empirical and normative approaches. Additionally, the authors recommend creating an integrative capacity for a more holistic approach. They argue CSR must move past the economical/ethical divide to a more holistic and integrative viewpoint. Lastly, Kurucz et al. (2008) recommend accepting a more practical perspective of the business case for CSR that includes progressing away from positivist and constructivist epistemologies.

Global Expansion of CSR in the 1990s and 2000s

Another significant trend consistent with post-Fordism during the 1990s was the growth in global institutions to stress regulation of corporations through voluntary CSR initiatives. There was an increased level of agreement within global and international

business standards and practices. Just as organizations were focused on CSR, many corporations were beginning to adopt and implement CSR policies. More companies were becoming known for having a great reputation for CSR practices. Small and medium sized companies such as The Body Shop, Aveda and Esprit de Corp. all saw an increase in consumer demand while larger firms such as Nike, Levis Strauss & Co. and Coco-Cola also adopted CSR policies (Carroll, 2008).

In 1992, a non-profit organization called the Business for Social Responsibility (BSR) formed. The BSR was created by small businesses who wanted to have a voice separate from the MNCs about social responsibility. Eventually, the BSR allowed large corporations into the organization, because they felt it was *necessary* in order to affect global change (Mokhiber & Weissman, 2005). Today, BSR works with more than 250 member companies all around the world to create long lasting strategies and solutions through research and cross-sector collaboration.

As the impact of globalization continued to attract media attention through the publicizing of corporate scandals, CSR continued to take on new meaning. In 1999, the World Trade Organization (WTO) meeting in Seattle, Washington was overshadowed by massive anti-globalization protests. On November 22, 1999, more than 40, 000 demonstrators rallied against the effects of capitalism and argued for more heavily regulated labour, employment and environmental policies. Mueckenberger and Jastram (2010) argue decentralization refers to the emergence of new forms of global governance structures not the loss of regulating structures (p. 224). They introduce Transnational Norm-Building Networks (TNNs) as an important driver of CSR because they can offer a stage to encourage self-regulation and norm building in areas where local governments

are struggling or failing (Mueckenberger & Jastram, 2010). In their article “Transnational Norm-Building Networks and the Legitimacy of Corporate Social Responsibility Standards” they discuss two TNNs: the United Nations Global Compact (UNGC) and the International Organization for Standardization (ISO) 2600.

The UNGC was founded in 2000 by then Secretary General of the United Nations Kofi Annan and it is a voluntary “strategic policy plan” for businesses. Those businesses who subscribe are dedicated to follow ten universally accepted principles concentrating on human rights, labour, the environment and anti-corruption. The UNGC extends the ten global principles to business practices worldwide and to support broader UN and Millennium Development Goals. It is the world’s largest corporate social initiative having more than 8700 corporate participants from 130 countries (United Nations, 2011). The UNGC does not enforce behaviour of companies, take on active monitoring, or engage in third party monitoring. Instead it relies on companies to self disclose their participation of the outlined ten principles. John Ruggie supervised the UNGC from 1997-2001 when he served as United Nations Assistant Secretary-General for Strategic Planning. In 2005, Kofi Annan appointed Ruggie as the Secretary-General’s Special Representative for Business and Human Rights. McKinsey & Company conducted a study of the efficacy of the UNGC and they concluded mixed results. The authors reported the Global Compact (GC) did have a positive impact on governments, civil society actors, and companies at the United Nations. Although, their results showed that only one company actually noted the UNGC was a significant contributor when changing policies. Many firms reported they would have adopted new policies regardless of their

association of the GC (McKinsey & Company, 2004 as cited in Mueckenberger & Jastram, 2010).

The ISO 2600 is an international standard focusing on social responsibility. It was developed in 2004 by the International Organization for Standardization (ISO). It is designed for both private and public sector organizations in developed and developing countries and those economies in transition. ISO 2600 is a voluntary tool that offers guidance to assist companies with structuring their socially responsible business plans based on existing international norms of social responsibility and by providing best practices. It is a way to further develop an international consensus of social responsibility issues and ethical business behaviour (ISO, 2011). Although these examples do offer a potential platform, criticism of both the UNGC and ISO 2600 point at the inability to hold company participants legally accountable for their actions as well as the lack of monitoring initiatives (Mueckenberger and Jastram, 2010).

Since 2000 empirical research on CSR has produced several changes to earlier conceptions and definitions of CSR. For example, Schawartz and Carroll (2003) reduced Carroll's (1979, 1991) previous four components to three (economic, legal and ethical, eliminating philanthropic) while Garcia and Mele (2004) retained four dimensions profits, political performance, social demands and ethical values and Windsor (2006) offered her own three elements of ethical responsibility, economic responsibility and corporate citizenship.

Globalization of trade has increased the responsibilities of MNCs because now they conduct business all around the world. Business executives must work with their stakeholders to gain their support of CSR policies. Conflict often arises with stakeholders

demands, and managers must create successful partnerships with important stakeholders (Maak, 2007). As Matten and Moon (2008) point out, corporations must balance their CSR policies to meet the expectations of different stakeholders.

Fredrick (2008) defined corporate citizenship as “Corporations, as legal entities, have the same duties and obligations as other members of society: to obey the law, contribute to the commonwealth, participate in governance, and demonstrate respect for other citizens. As citizens, they are responsible for their actions, and their owners and directors are charged with fiduciary oversight of company operations and assets” (p. 527). Rowley and Berman (2000) argued that CSP should be reduced to operational measures and not be conceptualized as a holistic concept. Griffin (2000) disagreed and argued engaging with other disciplines could improve our perception of CSP.

The limitations of VCCs are important when discussing the gendered impact on women workers, especially in the manufacturing sector (Pearson, 2007). Women workers are often employed in less skilled jobs and are at a greater risk for individual and structural discrimination and abuse by way of employment conditions. Harsh and/or forced employment, insecurity and level of pay are some of the issues affecting women in the workforce.

These gender debates will be further discussed in the chapters to come. Chapter two will describe the political economic environment in the Maquiladoras in Mexico and elaborate upon the gender differences in the workplace. Thereafter, chapter three will investigate Nike’s CSR policies in apparel factories established in the Maquiladoras in Mexico, with a special focus on the challenges pertinent to women labourers.

Chapter Two: Mexico and the Maquiladoras

As described earlier in chapter one, a key debate in international relations literature focuses on whether private, market-driven, VCCs are really able to provide the necessary protection to labourers in EPZs. This chapter continues the critical analysis of the emergence of EPZs. The first half of chapter two will provide historical background on the emergence of EPZs as an example of labour market and employment changes that took place under flexible accumulation. Furthermore, the cost benefit analysis of establishing EPZs for the host country as well as the hypothetical benefits for MNCs will be discussed along with a description of the main features of employment standards and working conditions in these zones.

The second half of this chapter will focus specifically on the Maquiladoras in Mexico, which have been organized very similarly to EPZs and reflect many of the same characteristics. It is important to stress that technically speaking the Maquiladoras do not fit the formal definition of EPZs even though they represent “assembly manufactures in Mexico whose production is primarily destined for export markets” (South, 1990, p. 549). In order to analyze the impact of CSR policies in Nike apparel factories in the Maquiladoras, it requires some background on the nature and operation of the Maquiladoras. This section of the chapter will begin by highlighting Mexico’s important geographical location and will paint the political economic picture that the Maquiladoras program grew in. Additionally, the development of the Maquiladoras through the Bracero Program, the Border Industrialization Program (BIP), and the impact of the North American Free Trade Agreement (NAFTA) on regional trade relations will be described.

The latter section of the chapter will discuss the employment conditions in the clothing industry as well as the employment conditions of women in the zones.

This background information will be the basis for examining Nike's Code of Conduct in chapter three to see how effective their CSR policies are at improving employment standards such as: minimum age, wages, hours of work, and maternity protection for working women in the Maquiladoras. It has proven to be very difficult to research and enforce labour standards in EPZs due to a lack of resources (FIAS Report, 2008). Criticisms of EPZs highlights poor employment standards (minimum wage, overtime, hours of work, and maternity leave), the right to collective bargaining, freedom of association as well as health and safety working conditions. There has been widespread international backlash concerning the expansion of EPZs worldwide from nongovernmental organizations (NGOs) and numerous fair-trade movements (ILO, 2003). For instance, the International Confederation of Free Trade Unions (2004) argued that even countries that adhered to ILO policies still have "weak labour inspection practices, intimidation of workers, limited access to zones by organizers, formation of company controlled unions, and other anti-union practices" (FIAS Report, 2008).

MNCs began contracting out each component of the labour process where they could incur the least amount of costs. This new dimension of flexibility in the manufacturing process is what Harvey (1990) refers to as *flexible accumulation*. Harvey argues that the most drastic transition in the labour market structure has been the increase of sub-contracting and temporary labour positions. He discusses that "the current trend in labour markets is to reduce the number of 'core' workers and to rely increasingly upon a

work force that can quickly be taken on board and equally quickly and costlessly be laid off when times get bad” (p. 152).

U.S. firms that manufacture in Mexico’s Maquiladoras are able to house their capital ownership and headquarters in America, while they sub-contract manufacturing out to local Mexican factories employing lower waged workers. The competitive pressures placed on firms to sub-contract and outsource their manufacturing are the main contributors of the transition to greater flexibility in the labour market. The market shift to produce ‘smaller batches’ of goods complements company’s pressure to quickly respond to the fast changing market. This thesis will now move to presenting the history and different variations of EPZs.

History of Export Processing Zones

EPZs are enclaves that have been a development strategy for over 60 years that provide the vital *links* to global production chains. They can be thought of as the “vehicle” of globalization (ILO, 1998, p. 3). The demand for EPZs increases as more companies expand their production networks. The transition to more flexible production has been prevalent in developing and newly industrializing countries worldwide (Harvey, 1990).

This thesis will use the International Labour Organization’s (ILO) 1998 definition of EPZs which is “industrial zones with special incentives set up to attract foreign investors, in which imported materials undergo some degree of processing before being exported again” (p. 3). The ILO has been monitoring and researching EPZs since the 1980s and began issuing articles and working papers on the topic in 1981. The Shannon Free Zone established in Ireland in 1958 is the oldest EPZ in the world (FIAS Report,

2008). It was set up at the Shannon International Airport and it provided investors reduced rent, favourable tax benefits and access to European markets. In 2008, the zone had 120 firms employing more than 7,500 workers with a yearly export total of \$2.5 billion dollars (FIAS Report, 2008). The development of EPZs rapidly expanded around the world as labour relations shifted from a Fordist model to more flexible production in the 1970s. In 2007, it was reported there were over 3500 EPZs employing 66 million people in 130 different countries worldwide (Singa Boyenge, 2007).

There are different variations of EPZs throughout the world that can be classified into three categories: trade, manufacturing, and services. Trade zones are referred to as *freeports* and normally comprise an entire city or jurisdiction. Typical activities inside these zones include trade and development. Additionally, I would like to introduce two other variations of manufacturing zones: special economic zones (SEZs) and enterprise zones. SEZs can expand an entire province, region or municipality and focus on a variety of industry and services. Enterprise zones are smaller and usually consist of a portion of a city or in some cases an entire city. They also are known for manufacturing all types of industry. There are three types of service zones: information processing zones, financial service zones and commercial free zones (ILO, 2003a). Information processing zones are located in part of a city and their economic goals are to develop information processing centers. Financial services zones are larger and usually are the size of an entire city and they focus on creating development of off-shore banking and insurance. Commercial free zones or free trade zones (FTZs) are warehouses that are often located close to an airport or port. They are duty-free areas that offer storage, packaging, warehousing and distribution amenities for re-export and trade operations (ILO, 2003a). Next, I will

discuss the cost-benefit analysis of establishing EPZs and then move to explain how host countries attract MNCs.

Benefits to the Host Country

A key debate in political economy literature surrounds the cost-benefit analysis of establishing EPZs and the economic performance of the host country (Warr, 1989). Since increased competition has contributed to the restructuring of the labour markets, there has been a surge of EPZs being developed in newly industrializing and developing countries. These countries use zones to attract foreign investment for export production in hopes of: increasing and diversifying exports, increasing backward and in some cases forward linkages, increasing employment, increasing transferable skills, and technology.

Backward linkages are created when EPZ contractors use inputs from the domestic market, whereas forward linkages are created when goods manufactured in EPZs are sold in the domestic economy. Eventually, host countries aspire to move past simple processing activities and improve their domestic economy and development (ILO, 1998). It is argued that EPZs are also a great way for host countries to introduce women into the formal workforce. The argument surrounding that women dominate employment in many EPZs and in the Maquiladoras will be further discussed in this chapter. Additionally, the substantial costs associated with the development of EPZs due to administration, infrastructure, and financial expenses in the public sector will be described (Jenkins, Esquivel & Larrain B, 1998).

Countries often establish EPZs as a primary way to attract new foreign direct investment (FDI). China's SEZs have been successful in generating over 80% of the country's FDI (FIAS Report, 2008). Another goal of EPZs is that they will increase and

diversify the host country's exports. EPZs have proven to drastically improve manufacturing exports throughout the world especially in North Africa, sub-Saharan Africa and the Middle East (ILO, 2003).

Host countries also hope that EPZs will generate backward linkages with domestic economies and increase foreign exchange earnings. A backward linkage is "the purchase of inputs from the domestic market and the subcontracting by EPZ enterprises to domestic firms" (FIAS Report, 2008, p. 20). Jenkins et al. (1998) report that EPZs are more likely to improve the host country's welfare when strong backward linkages are formed and when there are high levels of unemployment. Host countries which work hard to create strong linkages and increase demand for participation from the domestic market see greater economic benefits (Jenkins et al., 1998). It is important to note, backward linkages are not easily developed and require support from the host country. The transition of products and services between EPZs and the host country have significant impact on the welfare of citizens. Jayanthakumaran (2003) writes that "domestic borrowing by EPZ firms would enhance banking activities with the host economy" (p. 54). He argues that these linkages are very important for the welfare of citizens. A good example is South Korea because they have reported an increase in subcontracting relationships with domestic companies (ILO, 2003). Although many other countries have been successful in establishing significant backward linkages, it is not very common for forward linkages (selling EPZ produced goods in the domestic economy) to occur except for rejected products from quality control (Jayanthakumaran, 2003).

One of the largest motivating factors for host countries to develop EPZs is the influx of employment opportunities they can bring. It is important to note a majority of

the EPZs in developing countries attract unskilled labourers and women. It is argued that especially in rural areas, EPZs can significantly reduce unemployment and increase the number of women labourers (FIAS, 2008).

Another goal of EPZs is the hope they will introduce new transferable skills to workers that can later be used to boost the local economy (Jayanthakumaran, 2003). Carrillo and Zarate (2009) argue that often EPZs do not contribute to the national development because MNCs only outsource low value added labour parts of the value chain which only produce very low skilled workers. Johansson (1994) developed literature about new growth theory², which posits benefits from EPZs because he argued that EPZs promote learning by doing and on the job skills. He believed the “catalytic effect” that spillovers could occur from EPZs and be extremely beneficial to the host country. Additionally, host countries look to transfer technology links to local firms which in turn can positively impact local entrepreneurs and the domestic economy (Jayanthakumaran, 2003).

Even though EPZs offer numerous benefits to the host country, they carry high financial cost associated with development in addition to location (rural/urban) and operational (public/private) concerns. Developing EPZs requires a multitude of financial and economic costs. The expenditures typically include: salaries of government workers in the zone, security and other operating expenses, infrastructure development costs, import duties and charges lost from leakages of duty free merchandise, and taxes lost

² New growth theory focuses on three issues. First, domestic firms lack needed technical, marketing and managerial know-how and FDI within the zones fills this gap. Second, domestic firms seldom have access to international distribution channels and need support from international or joint-venture companies. Finally entry into international markets would be difficult without access to establish foreign firms with wide international business dealings. Any EPZ which incorporates the above factors may be beneficial to a country because of spillovers and their catalytic impact (Johansson, 1994).

from firms relocating from the domestic customs territory to the zone (FIAS Report, 2008). Milberg and Amengual (2008) report the infrastructure inside EPZs is more modern and extensive compared to outside of the zones. The difference is often extreme in countries which highly promote labour intensive manufacturing. Due to security and customs regulations, some EPZs are completely fenced off while others remain open.

Another important consideration for the host country developing EPZs is whether to develop them in rural or urban areas. Tetsu (2006) reports rural areas are more likely to produce agriculture goods and if EPZs are established there they can usually achieve full employment in the area. Furthermore, industrial products are usually produced in urban regions, which generally have higher unemployment. When EPZs are located in rural locations, a concern is that it is often difficult to link labour migration to more urban areas (Tetsu, 2006).

Most government developed EPZs are in rural areas as a way to increase employment rates. Miyagiwa (1993) and Basu (1996) both conducted studies to compare the effects of wellbeing and unemployment rates from EPZs in both rural and urban locations. In 2004, Tetsu compared the effects of EPZs in both locations and concluded that it is more favourable for host countries to develop EPZs in rural locations. Peter Warr conducted a study in 1989 where he investigated the “footloose” character of EPZs. Footloose manufacturing refers to the model of business where companies constantly relocate their production internationally when they find a more suitable location. He concluded his study by arguing that although EPZs can be successful at improving unemployment rates, he believes they will “never be more than a modest part of the solution to the vast employment problems” (p. 85) because of the difficulty linking

benefits to the domestic economy. Warr (1989) also cautioned that attracting international investors put domestic firms at risk for greater competition.

Another important debate in zone development is whether to create private or publicly owned EPZs. Since the 1980s, there has been a drastic increase of privately developed EPZs from 25 percent to 63 percent in 2008 because public zones often lack adequate funding (Milberg & Amengual, 2008). Private zones are known for having more modern infrastructure and amenities (Jayanthakumaran, 2003).

Another way to develop EPZs is through the partnership approach where governments often provide the off-site infrastructure such as roads to compliment the private development of the on-site infrastructure and facilities (FIAS Report, 2008). When zones fail or do not reach their full potential, it is often because of the original design, poor choice of location, uncompetitive policies, the development practices and weak links between government and private developers (ILO, 2003). This raises the question: what about success for employees of EPZs? Shouldn't labourers job security, learning skills (especially women), and ability to advance in the company be considered? These questions highlight some concerns about different dimensions of flexible production.

Incentive Packages

Host countries attract FDI from MNCs by offering investors incentive packages and creating competition between countries bidding for investment from MNCs (FIAS Report, 2008). In order to look attractive to foreign investors, developing countries offer different dimensions of flexible accumulation (Harvey, 1990). Incentive packages include favourable labour, human rights and environmental regulations. Host countries typically

offer firms financial incentives, tax free holidays, duty free imports/exports, strategic location and high-quality infrastructure. Further incentives include an abundance of cheap low waged labour, easily disposable workers by temporary contracts, as well as lowered labour standards than the rest of the country or weak implementation of the standards as well as “union free zones” and relaxed environmental laws (ILO, 2003).

In order to be more competitive and attractive to foreign investors, developing countries often institute ‘union free zones’ by eliminating laws or significantly reducing EPZ workers’ right to organize and collectively bargain. Even when national legislation is strong, for example in Mexico, reports have found that trade unions are frequently denied access to workers in EPZs (ILO, 2003). Firms typically negotiate freedom from foreign currency regulations and also have an open access to import equipment and machinery. MNCs normally receive very liberal fiscal incentives such as tax exemptions for a certain number of years as well as investment credits (Jayanthakumaran, 2003). In order to attract and maintain investors, environmental standards are often very relaxed by the host country. The 2008 FIAS Report articulated the difficulties governments face when trying to enforce environmental standards for both countrywide and single factory EPZ programs. It has proven more difficult for governments to evaluate the environmental impact for single factories because their locations are more disperse. For example in Mexico, waste produced by U.S. owned Maquiladoras is supposed to be imported back to the U.S. to be disposed. Due to lenient Mexican environmental authorities, there are many reports of harmful toxins and chemical being left at the plants or disposed on the side of the roads (Fatemi, 1990).

As an incentive for MNCs, host countries provide foreign investors with an abundance of low wage workers. It has been well documented that globally a majority of EPZ workers are women especially in the electronics and textile industries. Often women are preferred because they are thought to be better suited to perform repetitive work because they have smaller fingers and they are seen as more docile and inexpensive workers (Milberg & Amengual, 2008). However, the discussion that women dominate employment in many EPZs and in the Maquiladoras has been declining for many years and today the gender ratios are more equal. Still, women are often placed into “dead-end” positions which have no opportunities for longer term work or promotion. Since women still hold a majority of casual positions, and such as, they often do not qualify for benefits such as healthcare and social security (FIAS Report, 2008). As production increases and becomes more technically advanced fewer women are being hired because they are considered *lower skilled*.

The FIAS report (2008) suggests wages and benefits are higher inside EPZs than outside the zones, for example in Honduras, Sri Lanka, Costa Rica, Madagascar, and Bangladesh. Cling and Letilly (2001) argue that this may be because productivity in EPZs is so intense that wages need to be higher to keep workers or to attract new employees. Jauch (2002) argues higher wages occur through ‘piece rates and production incentives’ that increase pay in exchange for more intensive and longer hours of work. A strong link was found between workers low wages and motivation for overtime. The 2008 FIAS Report showed that 45 percent of factories studied paid illegally low wages and 72 percent paid illegally low overtime rates. Excessive overtime is often tied to strict shipping deadlines. The transformation from Fordism to flexible accumulation, as Harvey

(1990) describes it, has increased lean manufacturing or ‘just in time’ production which directly follows market demands. Sub-contractors are under strict deadlines and often hire extra workers under contracts to meet deadlines. Due to the uncertainty of market demands products fluctuate at high rates. MNCs enter into agreements with host countries that provide them the best package for offering inexpensive labour because, as profit driven corporations, these packages allow them to remain competitive in the global market. These dimensions of flexible production are what continue to extend GVCs. The thesis will now focus specifically on the development of the Maquiladoras.

Examining the Maquiladoras in Mexico

Mexico is situated in a unique geographical location in the southern region of North America. It is a developing country that shares a 2,000 mile long northern border region with the United States. Mexico is known for its relative political stability which makes it an attractive country for foreign investment. In particular the U.S. views Mexico as an excellent investment location because products can be transported to U.S. free trade zones for storage and distribution in mere days. Even before 1982 when wages paid to Mexican Maquiladoras workers were higher than the average wage paid in similar work in other third world countries, the reduced transportation costs made it more profitable for U.S. firms to invest in Mexico (South, 1990). Manufacturing plants have been an integral part of Mexico’s history and development. In Mexico, assembly manufacturing sites with the primary intention of exporting products are referred to as *Maquiladoras*. An English translation of the term Maquiladoras, means ‘assembly plant’. They are comprised of mainly international companies manufacturing products to be used in external markets (South, 1990).

Development of the Maquiladoras Program

The Mexican - American labour relationship has a long and arduous history. This thesis will now provide an overview of the Maquiladoras program dating back to the early 1900s. A large number of Mexican workers relocated to the U.S. during the economic boom of the 1920s. During World War I there were a plethora of jobs available and Mexican labourers crossed the border to take advantage of the work. In the 1930s, hundreds of thousands of Mexican workers were deported because of a reduction in U.S. jobs. There continued to be significant reductions in employment in the agriculture and manufacturing sectors in the U.S. well into the 1940s thus leading to massive unemployment in Mexico (Ross, 1978).

From the Bracero Program to the National Border Program

In 1942, the Bracero Program (also called the *Mexican Labour Program*) was initiated between the Mexican and U.S. governments. This program allowed American farmers to legally hire Mexican workers on short term seasonal contracts. In exchange for their work they would be paid a salary and be provided with transportation, housing and food (Zate, 1993). This program continued until 1946 when the U.S. terminated it, despite opposition from the Mexican government. Within Mexico, the Bracero Program created a large population movement towards the northern border region of the country. This influx of people led to housing and services problems in the northern region in addition to high levels of unemployment. For example, the termination of the Bracero Program created a loss of 185, 000 jobs for Mexican labourers along the northern border region (Ross, 1978).

The National Border Program (PRONAF) was implemented by the Mexican government in 1961 as a way to improve the socioeconomic problems that existed along the border region. The first objective of the program was to, “broaden the economic base of the region, to integrate the border area with the national economy, to improve municipal infrastructures, and to enhance the appearance of border communities in order to promote tourism” (South, 1990, p. 551). The second objective was to develop the agriculture and industrial sectors in order to diversify new industries to boost the border zone economy. In particular, this included the construction of new roads, railways and factories to create industrial parks (Ericson, 1970). The Mexican government was trying to create a more secure and permanent solution to fix the economic crisis along the northern border region. At the same time, the 1960s was a decade when many countries in Asia were finding success in attracting foreign investment through manufacturing and Mexico wanted to also be competitive (Dilman, 1970).

Border Industrialization Program

In 1965 Mexico created the Border Industrialization Program (BIP). The BIP was established to reduce unemployment at the northern border region of the country by attracting U.S. manufacturing companies. The program allowed foreign firms to “own and operate factories in Mexico and to import duty-free equipment and materials if the products and, eventually, the equipment are exported” (South, 1990, p. 551). This program marks the beginning of the Maquiladoras with 12 plants focusing on electronic manufacturing as well as garment making (Fatemi, 1990). By 1967, there were 57 operating plants employing 4,257 workers along the border region focusing on manufacturing electronics, textiles and furniture (South, 1990). U.S. corporations

increased their production by nearly 100 percent the first year, and in 1968 more than 7,500 employees were employed throughout 70 plants (South, 1990).

This program allowed Mexico to offer foreign firms a more competitive edge by the incentive of using new facilities and also an abundance of low wage labour. The majority of the plants (87 percent) were located in the northern border region (Ross, 1978). Wages offered in the northern border region of Mexico were roughly three times less than the minimum wage in the United States. Ericson (1970) reported the minimum daily wages along the northern border region ranged from \$1.60 in Ciudad Acuna to \$3.68 in both Mexicali and Tijuana. American companies that chose to manufacture in Mexico were able to increase their profits and remain competitive in the U.S. markets. The close proximity allowed U.S. administrative and warehouse operations to remain situated on the American side of the border, increasing their service and industrial employment. This type of joint production is commonly referred to as *twin plants* where, “some of the operation is done in the U.S border area, but the labour-intensive work is done in Mexico” (Ericson, 1970, p. 34).

In the 1970s, Mexico looked even more attractive to foreign investors when their economy fell leading to a severe currency devaluation of the peso (Fatemi, 1990). During the 1980s international competition for labour intensive manufacturing increased around the world, especially in the United States. Maquiladoras, offered U.S. firms an advantage due to the cheap labour and high intensity work supported and encouraged by the Mexican government. Labour intensive factories in Asia were causing great competition for U.S. companies. In this period of time the Maquiladoras sector drastically increased independent of the rest of the economy (Milberg & Amengual, 2008).

South (1990) argued a major critique of the BIP is that it increases unemployment in the U.S. by promoting firms to export jobs to Mexico. A similar issue is raised in Mexico since almost all of the manufacturing jobs are located along the northern border region (South, 1990). The program has driven migration influxes from the interior of the country to the border region in search of new employment opportunities. Furthermore when Maquiladoras originated, the manufactured products were forbidden to be sold in Mexico. Slowly this restriction was lifted and by 1983, 20 percent of products were allowed to be sold in the local economy and by 1989 this increased to 50 percent (South, 1990). After the North American Free Trade Agreement in 2001, all products produced in Mexico became permissible to be sold in the domestic economy (Hufbauer & Schott, 2005). When compared to the traditional Mexican industry, Kopinak (1995) describes the Maquiladora as being “paid lower wages, was non-union in orientation, classified most workers as unskilled and was characterized by a high proportion of women workers” (p. 30). Bair (2002) expressed concern about the Maquiladoras by arguing that Mexico was being transformed into an assembly production.

Echeverri-Carroll (1990) summarized the advantages of the Maquiladoras as a *vessel* to improve manufacturing development by building upon basic assembly plants to establish more advanced and technical manufacturing. Bair (2002) argues the materialization of the new industrial upgrading and development can have long lasting positive effects for the Maquiladoras industry. Gereffi, Humphrey and Sturgeon (2005) argue that South Asian countries such as South Korea and Hong Kong are similar to Mexico but they have advanced from simple assembly to manufacturing exports with high value added.

Another benefit the Maquiladoras provide to Mexico is the potential to increase backward linkages. EPZs can have a positive effect on the host country's economy when links are formed between MNCs and domestic suppliers. Jordaan (2011) conducted a comparative study to investigate the link between Maquiladoras along the border region and their impact on the local economy. He found that second and third generations or "younger" Maquiladoras firms demonstrate more linkages to the domestic economy compared to first generation assembly based Maquiladoras. Bair (2002) also reported the emergence of Maquiladoras is "characterized by genuine manufacturing as opposed to mere assembly operations, including some product design and R&D activities" (p. 207).

NAFTA's impact

In 1994, Mexico partnered with the U.S. and Canada to join the North American Free Trade Agreement (NAFTA). This trilateral agreement further strengthened regional trade and investment by reducing tariffs and regulations (Hufbauer & Schott, 2005). NAFTA did not effectively produce the dramatic number of jobs it had claimed it would, but it did *significantly* increase employment in the Maquiladoras (Bair, 2002). Furthermore, garment exports increased from \$709 million in 1990 to \$8.7 billion in 2000 (Bair, 2002). The growth rate of factories in the Maquiladoras doubled from 47% to 86% five years after signing the trilateral agreement (Hufbauer & Schott, 2005). NAFTA was also responsible for the expansion of the Maquiladoras further south from the border region deeper into the interior of the country (Hufbauer & Schott, 2005). NAFTA provided the opportunity for several Mexican manufacturers to progress beyond assembly exports to full package networks where they can expand from sewing and cutting to more advanced designing, and move up the value chain which offer "greater opportunity for

industrial upgrading because they connect a more diverse set of U.S. buyers to Mexican textile and apparel manufacturers” (Blair, 2002, p. 203). This thesis will now move to examine the existing human rights and labour regulations in the Maquiladoras.

Human Rights

The profile of workers has changed significantly in the Mexican Maquiladoras. Fussell (2000) described the typical profile of women workers in the 1970s as “young, single, childless, and relatively more educated migrant women” (p. 65). By 1982, the composition of the work force began to change to include more men and middle-aged married women. Men continued to be employed as the technology became more advanced in the plants. Married women became perceived as more responsible, mature and less likely to leave a position than single women. Despite the change in employment profiles, women workers are very vulnerable and face sexual harassment and pregnancy tests to deter workers from getting pregnant as well as not hiring pregnant workers (Dominquez, Icaza, Quintero, Lopez, & Stenman, 2010).

Violations of basic human rights in the apparel industry in the Maquiladoras are highly publicized. Barnes and Kozar (2008) describe the most prevalent employee abuse issues as being wage discrimination, unpaid overtime and child labour in addition to the violation of basic human rights. The authors point out that less attention is placed on problems specific to women such as: unjust hiring procedures, a lack of benefits, forced abortions and the difficulties of pregnant women working in the apparel industry. Barnes and Kozar (2008) caution readers that pretending these abuses do not exist only perpetuates the violations of basic human rights by corporations.

The labour intensive apparel industry predominately hires female labourers for positions that involve low levels of education and skill. Women are often perceived to be “more easily exploitable as compared to men, and it is precisely this segment of the female population receiving the most severe abuse and discrimination in the apparel industry” (Barnes & Kozar, 2008, p. 286). Furthermore, scholars have found root causes to the violations of basic human rights to be cultural and linked with women’s perceived “bred sense of docility” (Barnes & Kozar, 2008, p. 287) in addition to the lack of adequate information surrounding unionization.

Moreover, the challenge for women to fulfill a dual role in society as both mother and worker has placed them in a severely disadvantaged position with regards to employment opportunities. Trueba de Avenda (2003) writes about how the textile industry in developing countries, such as in the case in Mexico, is known for having the most offensive forms of pregnancy discrimination. This author also argues that in the first place it is a difficult process for non-pregnant women to be hired but especially for pregnant women because “labour laws only provide protection for pregnant women after they are hired” (Kozar and Barnes, 2008, p. 288). Therefore pregnant women are at an enormous disadvantage for gaining employment.

In the Mexican Maquiladora, women are often required to present documentation proving they are not pregnant before they can be hired. Additionally, Howard (2004) presented evidence from a 2003 International Confederation of Free Trade Unions report that showed employees were also forced to undergo “humiliating physical examinations to prove that they are not pregnant” (p. 289). This type of discrimination has caused some

medical practitioners hired by firms operating in Maquiladoras to become defiant. A medical practitioner employed by a Mexican Maquiladora reported,

“When I first started working at Matsushita, the director of personnel told me to make sure that I tested every single female applicant . . . because pregnant women were too costly to the company. It seemed that was all I ever did. I was appalled, but I did the pregnancy exams. At times I would be so angry . . . with how they were exploiting these very young girls that I would tell them [the supervisors] that girls were not pregnant when they were (Horgan, 2001, p. 5).

More testimonies from workers in the Mexican apparel industry and findings from international monitoring groups will be presented in the third chapter. Howard (2004) reported that many Mexican factories try to avoid hiring pregnant women because employers are forced to pay three months of maternity leave. In instances when female labourers get pregnant after being hired, regardless how far along they are in their pregnancy they usually are “required to work the same hours as other workers, including periods of forced overtime” (Barnes & Kozar, 2008, p. 287). These conditions could prove to be very detrimental to the health of the worker as well as the unborn child.

Women are easily persuaded to continue working under these dire conditions because often without these jobs they would not be able to supply basic food and shelter for their families. Additionally, most women living in these conditions do not have any other opportunities to earn a wage (Barnes & Kozar, 2008).

Labour Regulations

As previously described in this chapter, it is very challenging to monitor and enforce employment standards in the Maquiladoras. Cling, Razafindakoto and Roubaud (2005) discuss the flexibility given to EPZ firms by stating, “Even when labour laws are uniform nationally, there is evidence of more lax enforcement of labour law in EPZs and restrictions on trade union creation and actions” (p. 786). This is precisely the case in the Mexican Maquiladoras where the Federal Labour Law (FLL) is applicable throughout the entire country.

Compared to other developing nations Mexico *does* have very progressive labour laws that protect against the human rights abuses just outlined. Article 123 of the FLL lists a wide-range of protections for Mexican workers. It guarantees workers “the right to organize, the right to bargain, the right to strike, the eight-hour day, overtime pay, profit sharing, paid maternity leave, just cause for dismissal, and other social benefits and protections” (Solidarity Center, 2003, p. 4). Furthermore, Article 170 specifically addresses protection rights for pregnant women and their child. This article states that women are entitled to twelve weeks of paid leave, and can return to their same job up to one year after giving birth. Moreover, it states, “During the period of pregnancy, [a woman worker] will not perform work that requires considerable force and signifies a danger for her health in relation to gestation” (Barnes & Kozar, 2008, p. 278).

In addition to violating the FLL in Mexico, the discriminatory treatment of workers fails to address the practices of international human rights and labour rights norms that Mexico has ratified. These include: the International Covenant on Civil and Political Rights (ICCPR); the Convention to Eliminate All Forms of Discrimination against Women (CEDAW); the American Convention on Human Rights, and the

International Labour Organization's (ILO) Convention 111 on Discrimination in Respect of Employment and Occupation (Human Rights Watch, 1997).

The discrepancy between the FLL and accounts of employment standards from workers in the apparel industry raises the question why are these human rights abuses occurring if protective national and international laws exist? The neoliberal shift in authority from government to corporate power reflects today's highly globalized labour market. The ease at which corporations can move between countries to find the cheapest labour highlights a critical dimension of flexible production. The fear of MNCs closing their EPZ programs and relocating to another country with less regulation prevents developing nations from truly enforcing their own national regulations and laws (Barnes & Kozar, 2008). As a result, "production costs are lower than those in developed countries while personal costs to the women who work in these factories is often high" (p. 788). Wilson (2006) argues in Barnes & Kozar (2008) that most textile companies are primarily focused on profit and not "employee retention or happiness, as they are often skilled at hiding abusive practices from inspectors sent to ensure both labor laws and individual company standards are being maintained" (p. 787). As a result of reports exposing poor employment conditions, corporations have been adopting CSR initiatives to counter these allegations and maintain a positive image in the eye of the consumer. In chapter three, I will investigate the impact of Nike's CSR Codes of Conduct for their apparel factories set up in the Maquiladoras. Additionally, the next chapter will present workers testimonies to try to assess the real employment conditions in the clothing industry with a special emphasis on the challenges pertinent to women labourers.

Chapter Three: Nike and CSR

This chapter uses the case study of Nike in the Maquiladoras to investigate if corporate based private authority is an effective mechanism to improve employment and labour standards for factory workers. The previous chapter demonstrated that although the Mexican Federal Labour Law (FLL) applies throughout the entire country, including the Maquiladoras, documented human rights violations against workers occur in the Maquiladoras. This exemplifies how Mexican state legislation is not being adequately enforced and monitored in the Maquiladoras despite being in place. Barnes and Kozar (2008) argue that these human rights violations often occur as a result of a government's fear that MNCs will stop their EPZ programs and relocate to another country with less regulation if they attempt to strictly enforce their national laws. Given that government regulation of the labour market is reduced in the Maquiladoras, corporate practices in this location provide an ideal place to examine if private, voluntary, corporate self-regulation can instead be a viable option to provide employment standards for workers.

This chapter will present an overview of Nike's history as well as present their CSR code of conduct regarding employment standards in their sub-contractor factories. Nike's Code of Conduct will be juxtaposed with information from researchers that have done primary work in Nike apparel factories in the Maquiladoras. Lastly, this chapter will assess the similarities and differences between Nike's Code of Conduct and the worker's accounts regarding employment standards in the factories.

History of Nike

In the 1950s, pioneer Phil Knight wrote a paper about possibly breaking into the footwear market by manufacturing shoes in Japan while pursuing his MBA at Stanford (Nikebiz,

2011). At the time Fordism was the prevailing mode of production, described by Harvey (1990) as the process of manufacturing mass-produced goods in large volumes by using highly productive machinery. As previously outlined the Fordist model of production provided workers competitive wages, benefits, pensions as well as labour laws which facilitate the establishment of growth of unions (Harvey, 1990). Knight recognized that the U.S. was being flooded by lower-cost high quality products from Japan. He thought that by manufacturing lower-cost running shoes he could be competitive with the leading footwear companies (for example Adidas and Converse) because they still manufactured their products in higher-cost countries such as the U.S. and Germany (Locke & Romis, 2010; Locke 2003). Knight recognized the greater potential for profit by the labour process of more flexible production of manufacturing goods overseas. At the same time, Bill Bowerman was a well respected track and field coach at the University of Oregon who was constantly searching for a competitive advantage for his athletes (Nikebiz, 2011).

After receiving his diploma, Knight began cold calling manufacturing companies in Japan and Asia. He contacted the manufacturers of Tiger shoes, the Onitsuka Company in Kobe, Japan, and convinced them to distribute his shoes in the United States. Immediately after receiving the first pairs of shoes Knight sent them to Bowerman in hopes of attracting a sale. Bowerman was impressed; he offered to become a partner in the company. In 1964, founders Knight and Bowerman shook hands and both pledged \$500 dollars to form the company, then called *Blue Ribbon Sports (BRS)* (Nikebiz, 2011).

In 1965, with increased demand they hired their first employee, Jeff Johnson. In 1971, Johnson established the first BRS store in Santa Monica and created the name

Nike. By the early 1970s, BRS sales nearly reached \$2 million dollars. Locke (2003) reports the company ended its long relationship with two Japanese manufacturers Nippon Rubber and Nihon-Koyo and began designing and sub-contracting shoes on their own. The author argues this was caused by a change in the dollar/yen exchange rate as well as increased prices and costs in Japan during the 1970s. Knight and Bowerman reacted to increased manufacturing costs by searching the world for cheaper producers in Taiwan, China, Thailand, and Korea. In response to the growing demand in the U.S., Nike opened factories in Maine and New Hampshire. As costs grew too high in the U.S. in the early 1980s Nike decided to close their factories and source its production almost completely from Asia (Locke & Romis, 2010). Furthermore, by 1982, Nike produced 86 percent of their footwear in Korea and Taiwan. Costs in both these countries began to rise and so Nike encouraged their suppliers to find alternative lower-cost countries and helped to establish manufacturing sites for their top suppliers in Indonesia (Locke & Romis, 2010). As previously mentioned in chapter two, Warr (1989) described this style of constant relocation as the footloose model. The ability for MNCs to easily relocate to a more cost-effective country for production is a key dimension of flexible accumulation (Harvey, 1990).

 Knight and Boweman progressed from distributing Japanese running shoes to designing, manufacturing and marketing the brand of shoes themselves. The co-founders state they have always been a global company and argue that “Our business model in 1964 is essentially the same as our model today: We grow by investing money in design, developing, marketing and sales and then contract our companies to manufacture our products” (Nikebiz, 2011). Bowerman said, “If you have a body, you are an athlete”

(Nikebiz, 2011) and so as a brand, Nike strives to bring “inspiration and innovation to every athlete in the world” (Nikebiz, 2011).

By 2001, Nike expanded to manufacture products in more than 700 factories throughout 51 countries, employing more than 500,000 workers (Nike Inc, 2002). Nike has continued to expand their product range, in 1980 they sold 175 different styles of shoes and by Spring 2000 they were offering almost 1200 different styles. The company has also expanded beyond footwear, to apparel and equipment. In 2001, 59 percent of their revenue came from footwear sales and 29 percent from apparel. Nike’s revenue in 2004 was approximately U.S. \$12.2 billion which included \$6.5 billion from footwear sales and \$3.5 billion from apparel (Locke & Romis, 2010). In May 2010, Nike reported revenues of \$19 billion (Nikebiz, 2011). In 2005, the company became the first to fully disclose the locations of their factories. Based on Nike’s 2011 factory disclosure list, they have 29 factories operating in the Mexican Maquiladoras, seven of which they describe as supplying collegiate college products (Nikebiz, 2011b).

Today Nike owns Cole Hann, Converse, Umbro, Ltd., Hurley International, LLC and Nike Golf. These other business ventures accounted for approximately \$2.5 billion of the company’s \$19 billion in revenue as of the end of the fiscal year 2010. Although Knight was the co-founder of the company, and served as its President almost continuously from 1968 to 1990, he currently is the Chairman of the Board of Directors. The President of Nike Brand is Charlie Denson, who began with the company in 1979 as an assistant manager at Nike’s first retail store in Portland, Oregon. Mark Parker is the President and Chief Executive Officer of Nike. In 1979, he joined Nike as a footwear designer and remained with the company ever since (Nikebiz, 2011).

Nike's CSR Policies and Reports

Worldwide, Nike, Adidas and Reebok account for around 60 percent of the athletic footwear market (Locke & Romis, 2010). Despite the 2005 merger of Reebok and Adidas, Nike has still remained at the top of the industry controlling 33 percent of global athletic footwear sales and 36 percent in the United States. Nike's global approach to creating products catered to athletes and has catapulted it to the top of the industry. The company has "become the largest and most important athletic shoe company in the world" (Locke & Romis, 2010, p. 50). Although many factors of flexible production that helped to give Nike a competitive edge to take the footwear market by storm, they have also caused many problems for the company.

In the 1990s Nike was heavily criticized by human rights and environmental organizations for poor working conditions and low wages. This raises the question: at whose expense has Nike succeeded? Who has suffered in order for Nike to become the largest athletic brand in the world? Reports emerged exposing poor working conditions in China and Vietnam, underpaid workers in Indonesia, and accusations of child labour in Cambodia and Pakistan (Locke & Romis, 2010). At first Nike took a very hands-off approach and refused to acknowledge the problems. They said the issues were not with their workers since they contracted out their manufacturing and so Nike did not feel any responsibility towards them (Locke & Romis, 2010).

However, in 1991, Nike began to develop CSR policies through creating a Code of Conduct for suppliers to follow in sub-contractor factories. In 1992, the Code was implemented and it became mandatory for all current and potential suppliers to sign the Code of Conduct and also post it in their factories (Locke & Romis, 2010). It includes standards and guidelines to follow with respect to workers' health and safety.

Additionally, the company produced the Nike Code Leadership Standard which is a 147 page in depth document detailing each of the standards in the Code of Conduct. Nike recently, in 2010, revised the Code of Conduct in order to provide more transparency and uniformity across the company as well as the industry. Nike argues their Code of Conduct “remains a straightforward statement of values, intentions and expectations meant to guide decisions in factories” (Nikebiz, 2011). The 2010 Nike Code of Conduct includes the following 11 standards:

1. employment is voluntary,
2. employees are age 16 or older,
3. contractor does not discriminate,
4. freedom of association and collective bargaining are respected,
5. compensation is timely paid,
6. harassment and abuse are not tolerated,
7. working hours are not excessive,
8. regular employment is provided,
9. the workplace is healthy and safe,
10. environmental impact is minimized,
11. the code is fully implemented (Nike Inc, 2010a).

The first standard in Nike’s Code of Conduct (2010a) explains that employment is voluntary and that contractor’s must refrain from using bonded, forced, prison, indentured or any other forms of forced labour. Additionally, it states the contractor’s employees are not “subject to discrimination in employment, including hiring, compensation, promotion or discipline, on the basis of gender, race, religion, age,

disability, sexual orientation, pregnancy, marital status, nationality, political opinion, trade union affiliation, social or ethnic origin or any other status protected by country law” (Nike Inc, 2010a). The third standard states that contractors must respect the right of its employees to, “form and join trade unions and other worker organizations of their own choosing without harassment, interference or retaliation” (Nike Inc, 2010a). Moreover, contractor’s employees should be treated with “respect and dignity”; this standard goes on to say “employees are not subject to physical, sexual, psychological or verbal harassment or abuse” (Nike Inc, 2010a). Lastly, the seventh standard focuses on working hours, stating that employees are only allowed to work a maximum 60 hours per week and at least 24 consecutive hours of rest is required in a seven-day period. In addition, overtime must be paid at a premium rate. The Code of Conduct consistently commits the contractor’s to adhere to the laws established in the manufacturing country. Nike also created a code of ethics called, Inside the Lines, which describes the standards employees are supposed to follow. As a rule, Nike states each year employees must verify they have read and understood the code of ethics. Nike has a worldwide toll-free Alertline for employees to report any suspected violations to the code of ethics (Nike Inc, 2010a).

Murphy and Mathew (2001) argue the Nike Code of Conduct was not fully implemented in all of their factories until 1995-1996. Locke (2003) points out that opponents of the Code of Conduct criticize that it is only nominally enforced and that it is posted “in factories where most employees are functionally literate and/or do not possess the power to insist on its implementation is simply window dressing” (p. 15). Despite Nike’s CSR codes and other policies and initiatives, the company continued to receive criticism about working conditions in their factories. In 1998, Knight finally addressed

the criticism when he made a presentation at the National Press Club in Washington, DC where he spoke about Nike's policies on working conditions and admitted that the brand had become, "synonymous with slave wages, overtime and arbitrary abuse" (Connor, 2011, p. 6). As a result, Knight made six promises. The first was, *all Nike shoe factories will meet the U.S. Occupational Safety and Health Administration's (OSHA) standards in indoor air quality*. The second promise was, *the minimum age for Nike factory workers will be raised to 18 for footwear factories and 16 for apparel factories*. In 1996, a major scandal erupted when a picture of a male Pakistani child sewing a soccer ball was published in a *Life* magazine. The third guarantee was, *Nike will include non-government organizations in its factory monitoring with summaries of that monitoring released to the public*. This promise was the most relevant to human rights groups. The fourth guarantee was, *Nike will expand its worker education program, making free high school equivalency courses available to all workers in Nike footwear factories*. Connor (2001) described that wages have not increased enough to allow workers to give up overtime work so they can take educational classes. He furthered argued that if wages were 'livable', those who want to engage in education would have the time to do so. The fifth promise was, *Nike will expand its micro-enterprise loan program to benefit four thousand families in Vietnam, Indonesia, Pakistan, and Thailand*. Connor (2001) argued that it is cheaper for Nike to give micro-loans to thousands than to ensure 530,000 workers are paid livable wages. Lastly, Knight promised to *fund university research and open forums on responsible business practices, including programs at four universities in the 1998-99 academic year*. Up to this point, Nike had refused academics access to conduct research in their factories (Connor, 2001).

Nike was persuaded to join the Fair Labour Association (FLA), which is an independent monitoring system used to judge companies compliance with Workplace Code of Conduct³, initiated by President Bill Clinton in 1997. Members of the Association are supposed to implement the Workplace Code into their apparel and footwear factories (Murphy & Mathew, 2001). Additionally Nike was one of the first members of the Global Alliance for Workers and Communities, which was established in 1999 by the International Youth Foundation. The objective of this alliance is “to build a sustainable assessment, monitoring and development process and the infrastructure to ensure it lasts” (Murphy & Mathew, 2001, p. 22).

Knight was quoted as stating at the 1998 National Press Conference:

essentially, those critics will hang around restaurants, outside factories, in the pubs, to get those anecdotes, to tell how dreadful, this whole globalization process is in general, and how evil Nike is in specifics. We have about 530, 000 workers working on shoes and clothes on a given day. There are going to be incidents. There have been some in the past, and there certainly will be more in the future. There are too many workers, too many interactions daily...That there have been as few as you've read about, I think in many ways is remarkable (Connor, 2001, p. 25).

Rights groups such as the Campaign for Labour Rights (CLR) and Global Exchange Founder and Director Medea Benjamin remained sceptical of Knight's assurance that

³ The Partnership's Workplace Code of Conduct was created in 1996 (Murphy & Mathew, 2001).

workplace conditions were largely fine and that any violations were isolated incidents. Connor (2001) argued that, “Nike has treated sweatshop allegations as an issue for public relations rather than human rights” (p. 5). He argued that Knight’s speech was an effort to focus on issues Nike *was* willing to deal with, and to avoid the larger problems of violations of workers, low wages, forced overtime, and workers’ right to freedom of association. He described six promises that labour rights groups would have preferred Nike to address: (1) protect workers who speak honestly about factory conditions, (2) regular, transparent, independent and confidential procedures for monitoring factories and investigating worker complaints, (3) decent wages, (4) reasonable working hours, (5) safe and healthy workplaces, (6) respect for workers’ right to freedom of association. As of 2001, when this book was published, Connor reported there were not many improvements for Nike workers. The largest area of improvement, in 2001 Connor reported was in the area of health and safety, although Nike executives were still not “willing to put in place a transparent monitoring system involving unannounced factory visits” (p. 5). Connor argued that on several occasions when NGOs were allowed to visit Nike factories, they regularly discovered serious hazards (Connor, 2001).

Despite Nike collaborating with NGOs, critics still claim poor labour practices. Murphy and Mathew (2001) argue that the FLA does not adequately monitor companies and that it cannot force firms to pay basic wages. The authors state that these partnerships direct attention away from “structural and legal changes that could eliminate sweatshops” (p. 20). Nike’s Vice President of corporate responsibility, Dusty Kidd discussed the progress three years after partnering with NGOs, “I think we’ve learned a lot in three years, the hard way maybe, but we’ve learned a lot and one of the things I have is a great

deal of respect now for the NGO community. There are organizations out there who really do great work and really do care and are trying to make a difficult bridge between the private sector and their constituencies despite the great risks involved” (Murphy & Mathew, 2001, p. 21).

Nike began creating yearly corporate responsibility reports starting in 2001. In the FY01 Corporate Responsibility Report, Knight argues he was unsure of the best way to measure “good performance in corporate responsibility”, and stated he was not convinced anyone was because there were no universal accepted definitions. Knight illustrated this point when he spoke in July of 2000 in New York about the working with the United Nations Global Compact and stressed for the need “for a set of generally-accepted social accounting principles, and a means of monitoring performance against those standards” (Nike Inc, 2002, p. 3). He identified the 2001 CR Report as the first step to communicate Nike’s CR policies and reiterated they will continue to build upon their performance over the next year. This report was a culmination of all the evolution of Nike’s CR projects so far as the company was just beginning to “understand what sustainable business means” (p. 6). This report argued on page nine the company needs to focus on: (1) improve environmental performance of our suppliers, (2) eliminate waste and potentially harmful substances from materials and manufacturing processes, and (3) partner with experts, monitor, measure and report progress.

Following this report, the next CR report was published in 2004. The three goals laid out in this chapter were: (1) to effect positive change in working conditions, create innovative and positive social sustainable products and, use sport as a change. The FY04 CR Report relied heavily on the Global Reporting Initiative (GRI) guidelines, which

supplied a framework for detailing a firm's activities and impacts. The GRI is one of the world's most commonly used "sustainability reporting frameworks" that focuses on measuring corporation's environmental, economic and social performance (Global Reporting Initiative, 2011). Since the 2001 public report, Nike focused on improving their skills to: (1) identify risk of code compliance; (2) uncover issues and (3) implement strategies that can be used to drive performance and enable change within Nike internally and on a broader level. This report shows Nike's reporting has become more responsive in depicting non-compliance risk, and that it has become increasingly skilled at uncovering issues. Despite these improvements, Nike reported they still "remain profoundly challenged to understand how to systematically measure the impact of our own interventions. We are also challenged by how we play a role in enabling widespread change within the industry, which we now know is critical to facilitating change within our contract supply chain" (Nike Inc, 2002, p. 8). One of their solutions was to begin disclosing factory locations.

Moreover, Nike began publishing combined reports, FY05-06 CR Report, and then the latest FY 07-09 CR Report. In the 2005 report, Nike reported they were still committed to their long term goals: (1) improve working conditions through an integrated business approach, (2) to decrease global environmental footprint, (3) increase the power of sport around the world. In the FY05 CR Report Nike established new priorities, goals and progress, and in FY06 they adopted a more fully integrated approach to meet the goals by strengthening business ties, ensuring a leadership voice, measuring the qualitative impact and improving understanding of their footprint. This report was significant because it was more elaborate than the previous CR Reports which shed light

on hundreds of monitoring projects. Instead the 2006 CR Report focused on the work done in five major areas where non-compliance occurred within the footwear and apparel industries: (1) absence of freedom of association and collective bargaining, (2) harassment and abuse of workers, (3) excessive overtime work hours, (4) inaccurate or non-payment of wages, and (5) environment, health and safety issues. In the FY2005-2006 CR Report Nike also outlined five goals they want to reach by 2011. Specifically focusing on the systematic changes outlined for the workers in footwear and apparel industries, the key areas are: (1) implement a human resource management program in all focus contract factories, (2) implement freedom of association education program in all focus contract factories, (3) have 100 percent of focus factories complete statistically relevant sampling of employees, (4) promote multi-brand collaboration on improving working conditions in the global supply chain, covering 30 percent of factory locations and (5) eliminating Nike-caused excessive overtime in contract factories (Nike Inc., 2007, p. 13).

In the FY05-06 CR Report, Nike furthered their transparency and became the first company in the industry to disclose all of their active contract factories. This CR Report also explained that all current and potential suppliers from now on were subject to three types of audits in order to better determine the factory's compliance with Nike's code leadership standards: Management Audit and Verification Tool (MAV), Safety, Health, Attitude of Management, People and Environment Tool (SHAPE), and the Environment, Safety and Health Tool (ESH). Before moving forward to discuss Nike's most current FY07-09 CR Report, the next paragraph will summarize Nike's CSR progression over the years.

In the FY05-06 CR Report Nike looks back at the beginning of CR reporting, and describes from 1996-2000 the focus was to increase *presence* by establishing a function, building a global team and establishing partners. From 2001-2006, Nike's focus moved towards *interaction* to make the network more systematic by building auditing tools, creating transparency and rating schemes. Finally, 2006-2010, has been focused on *transformation* by building excellence in factory remediation, developing a sustainable sourcing strategy, increasing contract ownership of CR and building industry partnership. In terms of CR Reports, the 2001 CR Report symbolized the first generation of CR reporting, which was to set standards. As Nike progressed, they moved into what they refer to as the second generation, evident in the 2004 Report, where they developed tools, methods and monitored the aforementioned standards (Nike Inc, 2007). The third generation which is shown in the 2005-2006 CR Report and in the 2007-2009 CR Report targets progressing beyond issues to fully understand the root causes, to aim for systematic change not just the resolution of incidents and lastly promote change by responsible competitiveness monitoring in addition to a broader more holistic approach focusing on "a long-term strategy focused on innovation, collaboration, transparency and advocacy to prepare the company to thrive in a sustainable economy" (Nike Inc, 2007; Nikebiz, 2011a).

The Nike FY07-09 CR Report purports to demonstrate the progress made towards the FY11 targets and demonstrates Nike's increased business strategy to focus on Sustainable Business and Innovation (SB&I) (Nikebiz, 2011a). Nike reported the company is "making progress" on four of the five goals created to bring change to workers in the footwear and apparel industry (Nike Inc, 2010). The company reported by

FY09, 17 percent of focus contract factories had participated in human resource management training including freedom of association training, and had completed the worker survey. This report also showed they were “making progress” on evaluating Nike-caused overtime and addressing root causes including capacity planning by business and factory shifting to lean manufacturing and reducing the number of SKUs produced. Nike reported they are “on track” with their goal to build partnership as Nike as shared audit information of 40 percent of their factory base by the end of FY09.

Nike describes the performance of some factories as “yo-yo” (pattern of improvement followed by failure) and others as “flatline” (performance had become static). The report describes Nike’s ideal or desired results as being when a factory, “is able to move to a model of self governance in which oversight is characterized by less policing, and more checks and balances (supplemented with worker surveys and “checks” though qualified third parties and brand collaboration partnerships)” (Nike, 2010, p. 54).

Nike created letter grade assessment criteria which range from: A (fully compliant), B (mostly compliant), C (non-compliant with serious system failures), D (non-compliant by showing disregard for Nike codes), and E (when there is not enough information to measure). With specific regards to overtime, the amount of factories which received a D rating for having 72 hours of work only decreased from 27 in 2007 to 25 in 2009. The apparel industry is much more prominent for excessive overtime than the footwear industry (Nike Inc, 2010).

Nike made managerial changes at the board, executive and at the operations levels. The Audit Committee of the Board is responsible for dealing with concerns surround internal control, auditing or accounting. In 2006, at the executive level, Nike

developed a management structure to enforce corporate responsibility across the company. The Vice President for Corporate Responsibility reports directly to the CEO, and in turn co-manages a number of CR dedicated teams with business and functional executives. These responsibilities include: all regional and global CR policies, strategies, and incorporating more CR into the company. At the operational level, CR Directors manage the following CR initiatives: “Responsible Competitiveness” (Labor Compliance); Considered Design (Environmental Sustainability); Community Investments; Business Integration; and “Horizons” (Scenario Planning). As of 2007, Nike reports they employed almost 120 people to work on CR related issues (Nikebiz, 2011).

In the FY07-09 Report Nike stated that the fourth generation of CR reporting should be *integration* to sustainable manufacturing by integrated management of product development and working conditions throughout supply chains.

As can be seen by this overview, Nike has spent considerable time and effort over the last two decades to developing their CSR policies, in response to external pressure. Compared to other companies in the sportswear and apparel industry, Nike has been at the forefront of these developments, there by leading the way in producing detailed reports and having comprehensive policies and initiatives on the topic of employment stanadrds. In response to the pressure of the late 1980s the Nike Code of Conduct was created, and as the years passed more monitoring was allowed, both internally, and intermittently from independent agencies. A different question is, however, how much of these initiatives translate into improved working conditions for the employees in the apparel factories in the Maquiladoras? This chapter will now move to highlight

discrepancies between Nike's CSR Code of Conduct and workers accounts about employment standards in their apparel factories.

Discrepancies between Nike's CSR Code of Conduct and Working Conditions

As described earlier in this chapter, the FY07-09 CR Report illustrated out of 618 factories examined globally, there were 25 factories in 2009 which received a D rating for having 72 hour work weeks reported and 125 received a C rating for having between 60-72 hour long work weeks (Nike Inc, 2010). This is in direct violation of Nike's Code of Conduct which states, "contractor's employees do not work more than 60 hours per week, or the regular and overtime hours allowed by the laws of the manufacturing country, whichever is less" (Nike Inc, 2010a). This has been an on-going issue for Nike as Wells (2007) writes that "in over a quarter of 569 factories monitored in 2003-04 it was normal, for example, for workers to work over 60 hours a week (in violation of FLA and Nike codes) (p. 61). This example raises the question as to why Nike is not taking more action to enforce their standards. Given this information, are CSR policies actually able to provide the protection to Nike workers in contract apparel and footwear factories in Mexico?

Nike hires international companies to monitor their Code of Conduct in their supply chain. Two of the largest companies are Ernst and Young (E&Y) and Pricewaterhouse Coopers (PwC), both who have been hired by Nike in the past to providing monitoring reports. One of E&Y's confidential audit documents was accidentally made public and showed "monitors had missed numerous code violations (e.g. strikebreaking, physical and verbal abuse of workers, failure to abide by local pay and

overtime laws) and ignored most accepted standards of labor and environmental auditing” (Wells, 2007, p. 56). This demonstrated a potential weakness in the efficacy of accounting companies to accurately provide monitoring of working conditions.

Following this scandal, Nike employed PwC to conduct an assessment that resulted in PwC identifying relatively small issues and ignoring the larger problems such as: excessive and unpaid overtime, violation of minimum wage laws, and repression of freedom of association and collective bargaining, and safety standards (Wells, 2007, p. 56). Wells (2007) writes that managers knew who was being interviewed and they assisted in the selection process of workers to be interviewed. This type of organized bias by PwC questions a company’s ability to effectively produce independent monitoring reports for Nike. He argues that he monitors do not have much control since the firms agreed to the “monitoring methodology” (p. 56) but cautions overall this is an inadequate way to conduct interviews and monitoring. Additionally, another selected PwC “full report” based on a Nike apparel factory in Mexico was made public and it demonstrated failure to monitor “health and safety and environmental standards, and to monitor any working conditions for the plant’s outsourced production” (p. 57). Furthermore, a similar situation had occurred at another Nike factory in Mexico where the PwC report stated that it had established a transparent relationship with employees. Wells (2007) writes that a majority of the workers were on strike protesting against violations of Nike’s code of conduct and local labour laws (refusal to allow workers to join a union of their choice, violations of maternity and sick leave laws, verbal, physical, and sexual harassment and violations of health and safety regulations). Despite evidence showing some improvements there is significant support showing that monitoring code compliance “has

no significant impact on the working conditions of these factories” (Wells, 2007, p. 65). The monitoring system is saying the factories are in compliance with Nike’s codes of conduct although there are contradictory reports.

Even with CSR policies in place through codes of conduct and internal and third party monitoring companies auditing factories, there is limited information about what actually is going on in the sub-contractor factories. This chapter will now present information from other scholar’ primary research, and from non-governmental organizations that have done primary work in Nike apparel factories in the Maquiladoras. One of the most reported cases of a Nike contracted factory in the Maquiladoras is the Kukdung International factory in Atlixco, Mexico. Boje, Rosile and Carillo (2001) describe that the factory manufactured Nike college clothing and evidence demonstrated the factory broke Nike Code of Conduct and FLA codes in addition to Mexican Federal Labour Laws. On January 9, 2001, 600 of the 850 workers protested against worms inside the cafeteria food, the denial of free association to an independent union, denial of maternity leave benefits, child labour, unpaid overtime, abusive working conditions, and the firing of five supervisors who helped to organize a protest against the rotten cafeteria food (Boje et al, 2001; Rodriguez-Garavito, 2005). On January 11, 2001, police attacked the factory at night and the women (majority in their teens and early twenties) were “violently evicted from the factory” (Rodriguez-Garavito, 2005, p. 220). It was reported that 30 workers were hurt and three were hospitalized. The factory reopened on January 13, although Rodriguez-Garavito (2005) reported that when he visited many of the female labourers homes “many of the workers did not return to the factory for fear of being beaten again...their parents in tears, still refused to let them return to where they

had been so badly beaten, despite reassurance from other workers and organizations” (p. 220). The Campaign for Labour Rights, which is a non-governmental organization which is a part of the U.S. Anti-Sweatshop Movement, issued a letter from a female Kukdong worker which states:

Brothers and Sisters:

We are workers at the Kuk Dong Internacional SA de CV factory. We make sweatshirts for Nike, some with university logos.

We have been working for a year and month, during which we have suffered mistreatment from the Korean supervisors. Some talk to us in their language, and though we do not understand them at the moment, after researching the words, we know that what they call us the most means "trash".

We write you to ask for your support and solidarity with the work stoppage we have begun. We don't want to hurt the company, we just want to remove the union, since we were forced to join it and threatened with being fired if we did not. People who started work in the factory were made to sign their affiliation without knowing what they were signing. The union gained power, but this power was not to help the workers, but to serve the union's and the company's interests. Therefore we were forced to stop work to show our disagreement, and to be heard.

We thank you for your attention,

Sincerely,

Josefina Hernandez Ponce

This letter is further evidence of mistreatment of workers by the Korean supervisors at the Kukdong International apparel factory.

Boje et al. (2001) discuss the challenges in finding accurate reports out of this factory because the interviews that do take place are not with random workers and are made under the watchful eye of managers. In their own study they were only able to interview two workers because “anyone [they] interviewed would be fired or otherwise

punished.” However, they argue that the findings are “nevertheless valid stories of eye witnesses” (p. 38).

Some of the sources Boje et al. (2001) discuss are a video that the online magazine Behind the Label, released in 200 that showed a 15 year old child at work, as well as abusive working conditions and management practices at the Kukdong International factory. Nike’s Code of Conduct clearly states: “contractor’s employees are at least age 16.” (Nike Inc, 2010a). Therefore, this is in direct violation of Nike’s policy. The translated transcripts state: “I am 15 years old, I work at Kukdong. I make 352 pesos a week. [about 75 cents an hour.] I work 10 hours a day. I work from 8 a.m. to 6 p.m. I am an operator in Line 5, embroidering sleeves. I work 5 days a week. I don’t make enough money. In these days, one thousand pesos are very little money. I don’t take care of my family, but I wish I could buy things for my house. I can’t. The Korean (managers) haven’t abused me but I’ve seen how aggressive they are with other co-workers of mine. They yell at them aggressively.” (p. 35). Boje et al. (2001) presented testimony acknowledging abuse to a 15 year old girl’s body:

My feet are getting varicose, and I have strong pain in my hips. When I feel sick, I used to go to the nurse, but now I don’t. There is another nurse now, and I saw the way she treated a co-worker who was very sick. My supervisor asked me: ‘Bring Nancy to the nursery, because she feels terrible.’ So I brought her, and the nurse didn’t believe she was sick. She (the nurse) told her: ‘You are always sick. Am I going to believe it?’ So the nurse didn’t help her, and my co-worker had a fever for three days. [...]

There are no more than three water fountains. [for over 800 workers.]

Sometimes there is no water in these fountains. If we are thirsty, our mouths get dried-up (Boje, p. 35).

Boje et al. (2001) argue that according to the 2001 Verdit monitoring audit at the Kukdong International factory, evidence shows employers lock the factory doors and exits during work time. The authors reported that “During a recent Popocateptl volcano activity, factory supervisors locked all factory exits, and would not permit workers to leave the factory, and then forced these workers to work overtime” (p. 40). In addition, Boje et al. (2001) reported that armed security patrols were present at the factory gates and were monitoring production lines. Through translated interviews, female participants reported that their food contained maggots; that they were not allowed to go to the bathroom; and were also instructed to not talk to co-workers while working. More severe abuse was reported towards female workers. Sometimes conditions demand that women workers remain overnight at the factory. For example during non working hours while sleeping one participant stated, “sleeping, policemen hit every body. Several Persons were pregnant, there were abortions” (p. 8). Additionally, there were reports of sexual harassment, and “verbal abuse involved frequent yelling and insults, and included the screaming of racial epithets and obscenities. The workers testified that slaps to the head were more frequent, if not routine, during periods of intensified production before shipment deadlines” (p. 24). Several workers also testified that the factory had hired children between ages thirteen and fifteen for extended workdays, up to ten hours (p.26). Many workers did not have any files or documentations to show their age. Mexican FLL states that any child under the age of 16 must not work more than six hours. Therefore, this violation breaks Mexican labour law, as well as Nike’s Code of Conduct.

Some attempts were made to improve these conditions from a collective bargaining perspective. After a largely publicized incidence in the Kukdong International apparel factory, where workers refused to continue working unless some of their concerns were addressed, Rodriguez-Garavito (2005) reported that on October 8, 2001, a contract was signed between an independent union and the Kukdong International apparel factory in the Maquiladoras. However, Boje et al. (2001) argue that unfortunately, not much was gained, since soon after the incident Nike did not renew contracts with the Kukdong factory but rather took its business elsewhere. The authors raise the question, “But if the factory has lost its order, what kind of improvement is that?” (p. 38). Is that really success? If a firm is able to just relocate to another factory with fewer regulations there is little improvement for the workers. This is another example of how companies will seek out the areas with the least amount of restrictions on their business practices, such as where employment standards are lower and more work can be extracted from workers. In particular, this shows the priorities of Nike’s management. Where there are additional levels of authority to take into account, however small, the company prefers to move elsewhere where those are not in place, and the workers remain in adverse conditions.

The evidence from Nike employees in the Maquiladoras demonstrating worker oppression and infringement of labour rights expose both systematic and structural contradictions in the CSR regime. The weakness of CSR requires that it remain voluntary, leaving corporations to participate in at best, self-regulation and enforcement. CSR is highly contested by scholars because it demonstrates precisely how rights are

appropriated by corporations, and in the process, are lifted from their constitutional protections and legal frameworks.

Thus, corporations seek to clothe themselves in the legitimacy of a rights regime by picking and choosing from the vocabulary of rights without any of the responsibilities accrued by the state. The evidence from Maquiladoras workers shows the problems associated with enforcing and monitoring corporations CSR codes of conduct in contracted factories. Nike's knowledge and leniency about Code of Conduct violations such as excessive overtime and under age workers demonstrate that its focus is profit over responsibility to workers. By keeping contract factories at a distance, they are able to demand their 'just in time' delivery of goods without shouldering the responsibility of what actually takes place at the factories. This freedom of self-regulation in CSR is entirely consistent with the reshaping of a post-Fordist mode of production. The deregulation of state enforcement, reduction of support for unions, flexibility and ease of subcontracting in developing countries has lead to bidding wars among countries for corporation's investment. By examining Nike's adoption of CSR Codes of Conduct in the Maquiladoras, the company's desperation to remain out of the public eye has been illustrated through the company's prior refusal to disclose factory addresses on basis of 'proprietary information'.

Chapter Four: Conclusion

This thesis shows how self-regulating, voluntary CSR policies, exemplified in Nike factories in Mexico's Maquiladoras, characterized the labour market as it shifted from one based on Fordism to one based on more flexible production. Prior to the transition to what Harvey (1990) calls flexible accumulation, the predominant political influence and regulation of the labour market stemmed from the authority of nation states. Private authority has emerged in the absence of state authority which has receded due to the global competition among countries for FDI. Governments often relax their labour regulations for fear that MNCs will relocate to another country with less regulation where they can maximize profits, in a pattern that has been called the "race to the bottom". In response to external pressure in the form of media documentation of poor employment conditions, Nike feared backlash from their consumers and therefore set out to enforce their own labour standards. The company has established CSR policies and initiatives, such as codes of conduct, to combat these allegations and maintain a positive image in the eyes of the consumer.

The research questions for this thesis were: Why has CSR developed, and is CSR an effective mechanism for improving employment standards in EPZs? This was examined through a case study of how Nike responded to pressures to adopt CSR and its effect on working conditions in apparel factories in the Maquiladoras. A special focus was placed on the role of women in these factories as they are uniquely affected by various factors in the work place. This case study can be used to examine the effectiveness of private authority in filling the gap left by state governance in regulating

labour standards. This study is located in the greater context of shifting political authority from public to private actors in the global political economy.

Chapter one addressed the literature on CSR, contrasting the perspectives of business and the more critical viewpoints from international relations and international political economy literature. The business model for CSR seeks to integrate environmental and social concerns along with the quest for economic profit. This understanding of CSR has been challenged from an international relations and international political economy perspective which challenges the idea that CSR represents a true commitment to fair employment standards. Rather, those scholars consider CSR to be an attempt to evade public regulations and scrutiny giving MNCs licence to conduct their businesses with as much freedom as possible.

The second chapter outlines the emergence of EPZs with specific focus on how the Maquiladoras in Mexico, though not technically EPZs, fit the EPZ model. Further, the conditions that led to the Maquiladoras becoming an integral part of the global political economy were examined as a part of the move from Fordism to flexible accumulation. The poor enforcement of Mexican labour laws in the Maquiladoras makes them an ideal location for companies that wish to be competitive in the international market. Due to the fact Mexico is in competition for FDI, the country is under pressure to provide incentive packages to remain attractive to MNCs. This thesis offers a closer look at the result of the pressures on MNCs to 'race to the bottom' to make the most profit at the lowest cost in the absence of a political authority.

In Chapter three this thesis examines the case study by looking at Nike apparel contract factories in the Maquiladoras. By providing the historical, social and economic

environment that surrounded Nike's success in entering the global footwear and apparel industry, the conditions that led to the 1991 Code of Conduct are described. In addition, transcripts of worker's testimonies reveal that Nike has not been fully compliant with their own standards provided for in the Code of Conduct. This raises some questions about the effectiveness of CSR in improving employment standards in EPZs or EPZ-like areas.

Making universal claims about the effectiveness of CSR is beyond the scope of this thesis, which in no way represents the totality of research in this area. However, the thesis does shed light on Nike apparel contract factories in the Maquiladoras. It reveals the effects of weak state enforcement regulation such as: corporate self-regulation produces limited results. The structures of 'just in time' delivery or other mechanisms that operate to keep the contractors at an arms-length from the firm impede the efforts to maintain the standards set out in the code of conduct. The worker's descriptions show how low the standards of work are in some areas. This is especially significant for women who occupy the most vulnerable role. We have seen that there are significant problems associated with monitoring and enforcing the compliance with CSR codes of conduct in Nike apparel contract factories in the Maquiladoras. Therefore, it can be concluded that CSR on its own is not an effective substitute for government regulation.

The expectation to fulfill dual roles of mother and worker has placed women in a severely disadvantaged position with regard to employment in the Maquiladoras. They often have no other option other than to work for these companies as they are responsible for providing for their families and can be pushed into working in adverse conditions, do excessive overtime, and suffer physical and sexual abuse. This shows how the

company's main priority is profit rather than responsibility to workers. As a form of private authority, CSR as a self-regulating mechanism has not proven capable of alleviating these conditions for Nike apparel contract workers in the Maquiladoras. This is not to argue that CSR produces no regulation whatsoever, but rather that it enables companies to be selective about which aspects to emphasize in line with corporate objectives, which may not be worker's health and occupational safety. Therefore, it can be argued, that CSR initiatives, such as codes of conduct and other voluntary policies are put in place to placate consumers rather than to put significant emphasis on improving the conditions of the workers making the products.

The weakness of CSR as an effective regulatory mechanism is that it remains voluntary leaving corporations to self-regulate. Firms can pick and choose issues depending on what the company considers being in its best interest, which means its efficacy, is highly contested. Even though there has been a series of outcries and expositions of the conditions of the workers that produce Nike products throughout the years, this has not proved to be powerful enough to bring about a general boycott on a scale that would hurt profits. Nike's refusal to allow independent monitoring agencies access to their facilities and further, the refusal to make public the location of factories allows for little accurate information to enter public consciousness. This secrecy surrounding its manufacturing should be enough to raise concerns about their ethical (or maybe not so ethical) business practices. It can be suggested that Nike's superior marketing campaigns have been successful enough to counter these challenges and keep the company at the top of the apparel and footwear industry. Therefore, the enforcement

of the working standards is almost entirely up to the whim of the company, which point to the shortcomings of the voluntary self-regulating aspect of CSR.

A thesis of this size is inherently limited. Some suggestions for further research are to conduct a comparative study between Nike apparel contract factories in different countries to see if the different levels of state regulation have an effect on worker conditions. Another proposal is to investigate what country has the highest level of state regulation but still remains competitive and attracts FDI. Another suggestion is to research other large MNCs within the apparel industry in the Maquiladoras and investigate whether their codes of conduct are being complied with, and whether the company manages to stay competitive while doing so.

Structural changes can take a long time, but in the short term, the attempts of independent monitoring agencies to produce more accurate reports of the conditions within the apparel factories in the Maquiladoras should be encouraged. Only that way does CSR have a hope of fulfilling its potential, because while companies have control over their image the effectiveness of CSR is severely compromised. Private authority has not proven itself to be a fully effective mechanism to fill the void in the absence of state authority as labour market trends shifted. This debate might continue for years to come, but in the meantime, workers continue to be exploited by MNCs in pursuit of profit.

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