



# 3 EXPORT ORIENTED MANUFACTURING INDUSTRIES AND YOUNG WORKERS

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WOMEN IN DOORWAY > When she's not making Nike soccer shoes, this Nike contract worker lives alone in a tiny room in the workers' slum of Tangaran. PIC Ashley Gilbertson/Oxfam CAA

## BACKGROUND

The role of globalisation on the working life of young people is complex and their experiences are diverse. However, an analysis of the diverse experiences of young workers reveals a contradiction: while globalisation has created jobs for young people, it has simultaneously undermined their security and labour conditions.

Technological advancements and rapid growth in trade have offered new employment opportunities for workers around the world. Unfortunately, for millions of young people, these opportunities are either inaccessible or are doing little to improve their living standards. Youth unemployment rates remain very high in many regions of the world and are usually much higher than the average. The International Labour Organisation (ILO) estimates that 41 percent of the world's unemployed are young people (ILO 2001). Even for those young people employed, their work is frequently characterised by insecurity and poor working conditions. In many cases, globalisation is exacerbating the vulnerability inherent in this transitional phase from childhood to adulthood (ILO 2001).

It is within this context that this chapter examines the phenomenon of youth employment within export oriented manufacturing industries (EOMs), particularly in the textile, footwear and clothing industry. Freer trade laws have prompted many transnational corporations (TNCs) to shift their production to countries where cheap labour is in plentiful supply. This is particularly the case for the production of goods that require low-skilled, labour intensive work such as shoes, clothes, toys and electronic appliances. In countries like China, Mexico and Bangladesh, one can now find a large sector of the workforce devoted to the production of this sort which is focused on export markets.

The larger proportion of workers in EOMs are young people, particularly women. EOMs offer opportunities for people with few or no work skills or experience, which

makes young people prime candidates for jobs in these industries. Furthermore, young people are often preferred as employees because they are considered to be faster, more dexterous and more subservient than their counterparts (Klien 2001).

Many horror stories have emerged from so-called ‘sweatshops’ across the world involving harassment, sickness, police brutality, and even death. While the sensational nature of these stories may not always reflect the day-to-day realities of the millions of workers employed in EOMs, they do highlight the worst cases, reflecting the cruel consequence of an international industry where labour rights are violated to maximise profits. Though we have seen improvement in some areas, the majority of youth employed in EOMs continue to experience daily human rights abuses within their workplace even if they do not always make the headlines.

Many of the human rights issues dealt with in this paper have been covered in more detail in other reports<sup>1</sup>. However, the situation facing youth in EOMs is rarely the focal point. This chapter aims to contribute to the debate by analysing the experiences of young people within EOMs and the future prospects they provide for employees.

## KEY DEFINITIONS

**EXPORT ORIENTED MANUFACTURING INDUSTRIES (EOMS):** refers to manufacturing industries that are characterised by low skilled, labour intensive work. The manufactured products are predominantly made for export purposes and are typically low value-added goods, such as the production of textiles, footwear and clothing (TCF), electronic goods and toys.

**EXPORT PROCESSING ZONES (EPZS):** special industrial zones in which governments grant foreign investors financial incentives such as tax holidays, duty free imports and exports to attract investment.

**SUB-CONTRACTORS:** operate between the TNC and the production facility, and include buyers, agents, trading companies and importers.

**COMPANY CODES OF CONDUCT:** voluntary codes that TNCs have adopted stipulating the labour standards to be implemented within the factories where their goods are produced.

**MULTI-STAKEHOLDER INITIATIVES (MSI):** joint initiatives whereby human rights organisations and unions work in conjunction with businesses to ensure sufficient effort is being made to improve labour conditions where goods are produced. Examples include the FairWear Foundation, the Fair Labour Association, the Ethical Trading Initiative and SA8000.

**LEAD-IN DELIVERY TIME:** the amount of time manufacturers have to produce the goods bound for overseas markets.

**THE TEXTILES, FOOTWEAR AND CLOTHING MANUFACTURING INDUSTRIES (TCF):** employ roughly 30 million people globally with a high proportion of young women (Sajhau 2000:13). Globally, the textile industry is the largest employer followed by clothing and footwear, and TCFs in developing nations possess the highest proportion of young workers (Sajhau 2000:19).

**MULTI-FIBRE AGREEMENT (MFA):** was a framework of bilateral agreements established in 1974 that governed trade in the global textile and clothing industry. It imposed quotas limiting the amount of exports allowed to individual countries in order to protect the domestic industries of the importing nations. In 1995, the WTO replaced the MFA with the Agreement on Textiles and Clothing (ATC), which will

see the phasing out of the MFA's quota system by 2005, though doubts exist over the commitment to do this by both the US and the EU.

**NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA):** free trade agreement between Canada, Mexico and the USA.

**THE CARIBBEAN BASIN INITIATIVE (CBI):** trade agreement between the US and countries of the Caribbean.

**FREE TRADE AGREEMENT OF THE AMERICAS (FTAA):** this is a proposed agreement between North and South America that will roughly mirror NAFTA.

## KEY PLAYERS

**INTERNATIONAL LABOUR ORGANISATION (ILO):** formulates international labour standards in the form of conventions and recommendations setting minimum standards of basic labour rights.

**WORLD TRADE ORGANISATION (WTO)** and other multilateral agencies that promote trade liberalisation.

**THE INTERNATIONAL TEXTILE, GARMENT AND LEATHER WORKERS' FEDERATION (ITGLWF):** a global coalition of 217 affiliated organisations that aim to support the rights of workers and trade unions in the textile, garment and leather industries.

**THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU):** has 231 affiliates globally and promotes the function of the free trade movement and reports on labour rights violations across the world.

**CLEAN CLOTHES CAMPAIGN (CCC):** with its headquarters in the Netherlands, the CCC organises campaigns that promote better working conditions in the garment and sportswear industries.

**NIKEWATCH:** Nikewatch is an initiative of Oxfam Community Aid Abroad which aims to improve working conditions in the garment and sportswear industries.

Various other non-government organisations (NGOs) that work towards labour rights in a range of capacities, including:

- *Maquila Solidarity Network* – [www.maquilasolidarity.org](http://www.maquilasolidarity.org)
- *Global Exchange* – [www.globalexchange.org](http://www.globalexchange.org)
- *Hong Kong Christian Industrial Committee* – [www.cic.org.hk](http://www.cic.org.hk)
- *Sweatshop Watch* – [www.sweatshopwatch.org](http://www.sweatshopwatch.org)
- *Transnationals Information Exchange-Asia (TIE-Asia)* – [www.tieasia.org](http://www.tieasia.org)
- *Human Rights Watch* – [www.hrw.org](http://www.hrw.org)
- *Campaign for Labor Rights (CLR)* – [www.campaignforlaborrights.org](http://www.campaignforlaborrights.org)

## MAIN ISSUES

There is an increasing sense of powerlessness amongst a large segment of the world's working youth which has emerged for two central reasons. Firstly, job prospects are no longer governed by affairs in their immediate environment, but are influenced by a multiplicity of forces emerging from the global economy. Secondly, young people are more disconnected from the events and decisions that are shaping their future than in previous generations. This adds another dimension of uncertainty to what is already a time of considerable vulnerability.



This man lives in a small compound with his pregnant wife and other Nike workers. He says: "My wage is OK for food [basic low quality rice] for us, but we can't buy a radio or anything. The one thing I am scared of is the financial situation when the baby is born, because the Nike wage is too low." PIC Ashley Gilbertson/Oxfam CAA

The experience of the EOM worker highlights these issues. Re-location strategies, shifting trade alliances and erratic consumption leaves these jobs precariously exposed to shifts in the global marketplace. The causes behind such trends are complex and inherently related to the processes of globalisation.

## 1. ROLE OF TNCs: A RACE TO THE BOTTOM

TNCs outsource production in a variety of ways but are primarily driven by achieving the lowest price – a phenomenon referred to as a ‘race to the bottom’. As costs are squeezed, competition between sub-contractors increases, driving prices down. It follows that downward pressure is applied to both wages and working conditions within EOMs (TGWU 2000:8). There is an inherent conflict between the principles of competition embodied in TNC-led globalisation and the rights of workers (Sajhau 2000:69). One Bangladeshi factory owner describes the problem this way:

*“Every week I have somebody telling me that I need more windows, more crèche facilities, better sick-pay arrangements, more breaks and so on. Then they tell me, ‘don’t forget, you are competing against China – you need to keep your prices low’. I am operating in a cut-throat market. It is not this factory that sets prices and wages, but the companies that buy our products. How am I supposed to pay for better conditions, when I’m operating on non-existent profit margins?”* (Watkins 2002: 191)

## 2. ROLE OF TNCs: INSECURITY

The freedom that TNCs have to relocate their production sites renders EOM jobs fundamentally insecure. The large sub-contracting companies survive the perils of relocation strategies by being the TNC’s partner in the pursuit of cheaper labour forces. In the meantime, workers generally enjoy only the short-lived security provided by temporary working contracts (Sajhau 2000).

The international sub-contracting system that drives this process can be represented by a simplified production chain as follows:

Concept – R&D – Design – Sample – Testing – Manufacturing – Marketing.  
(HKCIC 2002: 2-3)

Typically, the TNC is responsible for all stages of this process except for manufacturing, which is consigned to sub-contractors. As marketing has increasingly taken precedence over the fabrication of the actual product, the business of manufacturing has become the least profitable in this chain.

Although TNCs may be both contractually and geographically removed from the employees producing their goods, their business activities have direct and profound implications on working conditions. Whilst the causal links between working conditions and the sub-contracting system have been demonstrated, many TNCs do not assume the accountability implied by their role in this causal chain. Workers within EOMs are, of course, officially the employees of the production facility owner and this provides a loophole for TNCs to evade any responsibility.

## 3. ROLE OF TNCs: LEAD-IN DELIVERY TIME

Lead-in delivery times are generally made in response to consumer demand, which can fluctuate dramatically depending on the success of the product or time of year, such as a surge in orders around Christmas time. In order to fulfil the production demands made by the TNCs, the ability to do overtime work often becomes a condition of one’s employment. This violates the right of workers to reasonable hours of work,

defined by the ILO as an average of 48 hours per week. Furthermore, in certain EOMs, mass layoffs become common during the off-season. In China's toy factories, for example, up to half or two-thirds of the workforce will be retrenched in the off-season (HKCIC 2002: 9).

#### 4. EOM AND SHIFTING TRADING PATTERNS

Of central concern to the future of the global manufacturing industry and the fate of its workers are a number of multilateral and bilateral trade agreements. This is particularly the case with the phasing out of the Multi-Fibre Agreement (MFA) and its replacement by the Agreement on Textiles and Clothing (ATC). According to the ATC, by 2005 all trade quotas imposed by the MFA will be completely phased out. There is much speculation about the possible consequences, but it seems that there will be a clear division between who profits and who suffers from the erasure of the MFA (TGWU 2000: 6-7). Many TFC industries appear ready to relocate, causing further insecurity to young workers (TGWU 2000: 6-7). Shifting patterns in global trading also have other effects, including:

**Narrow Scope of Production.** Many countries have created manufacturing industries that produce a very limited range of goods, creating so-called "textiles and electronics monocultures" (ILO 1998:11). This specialisation leaves nations vulnerable to changes in trading patterns and consumer 'fads'. For example, growth in exports and employment within Sri Lanka's TCF industries has relied on the quotas apportioned to them within the MFA. If the quota system of the MFA is phased out, it may prove unlikely that Sri Lanka can compete with the more developed industries of China and India, making the future of Sri Lanka's TCF workforce precarious (Dent & Tyne 2002).

**Dependence on a Handful of Large Importers.** When industries are propped up by imports from a limited number of countries these industries become vulnerable to the trading decisions of importers. The reliance of Caribbean TCF industries on trade with the US typifies this problem, as the establishment of NAFTA has improved prospects for Mexico to the detriment of Caribbean EOMs. The Caribbean Textile and Apparel Institute reported that since the introduction of NAFTA, 150 companies and 123,000 jobs were lost in the Caribbean, many of which were relocated to Mexico (ILO 1999). Indeed, Mexico's EOM industries, which are largely dependent on US materials, consumption and investment, may face a similar dilemma in years to come (Habel 1999:4).

#### 5. EOM AND DEVELOPMENT

EOM can contribute to the economic development of a country and provide a basis for creating a skilled workforce. Singapore, Taiwan and South Korea are oft-cited successful examples of this process, and countries like Mauritius also seem to be on their way to mirroring this model. In order for EOM to make a positive contribution, they must be accompanied by specific government strategies that include:

- i. Providing the workforce with extra skills to aid in the nation's transition from low to high skilled industries (Watkins 2002);
- ii. Backward linkages from EOM into other domestic industries such as 'local content' as introduced in Taiwan (Watkins 2002);
- iii. Policies that make EOM secure within the global marketplace such as South Korea's 'close government-business ties' that included the provision of import restrictions.



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The first strategy is the most significant for young workers as it promotes skills to expand one's employment opportunities or to increase earning potential. The reality is that in many EOM positions, training is short and task-specific leaving little possibility for upward mobility.

## 6. A FLAWED SYSTEM

Regardless of any individual country's economic success through EOM, there is a need to attend to the fundamental flaws inherent in the sub-contracting system discussed above. Without addressing these flaws, it is likely that EOM will continue to be relocated to places where cheap and abundant sources of labour are available. This displaces rather than solves the problems identified here (HKCIC 2002:3).

Though EOM may add to the momentum of national economic development, this must be balanced with labour and human rights being non-negotiable. The current system seems to force a fundamental disparity between the health of the economy and that of the worker. The current sub-contracting system rewards low wages irrespective of working conditions. If the cost of manufacturing increases, either through an increase in wages or better working conditions, countries are punished. For example, the success of South Korea was forged in the 1960s by a military government and many years of labour rights' abuses. As labour conditions improved, wages increased and union memberships multiplied, thousands of workers lost their jobs. Between 1990 and 1993, for instance, 582 factories were closed. Most of the workers were middle-aged women who had difficulty finding other employment (Moen 1998:10).

It is the position of IYP Commission that economic development is an important factor in the fulfilment of citizens' right to development. However, if the price paid is to ignore labour conditions, then it does not fulfil the right to development. As rights are interdependent, one right should not be sacrificed at the expense of another.

## 7. UNION REPRESENTATION

The function of trade unions has particular value for young workers, as young people generally have less experience in bargaining or negotiating with employers. In this respect, a trade union provides much needed assistance to a young person new to the workforce.

The ILO (1999) reports that the relationship between unions and factory owners in EOM has improved in some regions,<sup>2</sup> while in other regions resistance to unions remains a persistent problem. Obstacles to union participation within EOM workplaces have been well documented, particularly those imposed in export processing zones (EPZs). For example, in Bangladesh, legislation exists that prohibits EPZ workers from joining trade unions, directly violating the right to freedom of association.

While national legislation defines the parameters for the observation of the right to freedom of association, company policy and practice is just as important. Many factories provide in-house unions for their workers in order to inhibit the functioning and influence of external, independent unions. These in-house unions are sometimes referred to as 'worker participation groups', 'worker-management committees', 'solidarist associations' or 'company unions' (ILO 1998).

Other anti-union behaviour is more aggressive and includes companies, governments and the military actively intimidating union members (Connor 2002a). Instances of blacklisting union members or their unjustified dismissal are also frequently reported (ILO 1998).

Another method through which companies eschew union activity involves closing down a factory and reopening it under another name. In some extreme cases, factories have been closed only to be re-established in neighbouring countries (ILO 1998).

Though TNCs may not be directly involved in these problems, their indirect influence is important. Simply put, workers' rights are often perceived as an impediment to profitability, and so unions are more likely to be treated as adversaries (CCC 1998:23).<sup>3</sup>

## 8. YOUNG WOMEN

There is a need to specifically understand the impacts upon young women when discussing EOM, especially as they represent a large proportion of the EOM workforce (Sajhau 2000). The majority of these women are single and primary school-educated, with little or no previous work experience (ILO 1998:10). Undoubtedly, the opportunity to work in EOM and the income offered is much needed.

Employers are known to prefer young women workers as they are considered to be fast, dexterous and patient, making them suitable candidates for the labour-intensive and repetitive nature of EOM jobs. However, young women are sometimes preferred by employers for other, less scrupulous reasons. For example, it has been alleged that young women are preferred to older women because they are less likely to have children, more subservient workers, less likely to complain or to join unions, and therefore to have fewer conflicts of interest with their work (CCC 1998:3).

Most nations have specific labour laws that clearly state the rights of women during menstruation, pregnancy, maternity and breast-feeding that reflect the numerous human rights instruments. Yet many young women are unaware of their entitlements as workers. For instance, a study conducted by the Hong Kong Christian Industrial Committee (HKCIC) found that 99 percent of surveyed workers in Chinese toy manufacturing factories were unaware of labour laws that protect female workers (HKCIC 2001:22). In addition, sexual harassment and verbal abuse of young women by their superiors within the factories are also frequently reported. Amongst the more extreme forms of harassment are reports of compulsory pregnancy tests and women found to be pregnant being fired (HKCIC 2001:1). Aziza, a 23 year old mother of two, relates her experiences working in the Bangladeshi garment industry:

*"I lost my first job when the manager found out that I was pregnant. They had no right to sack me. I came to Dhaka with my sister, and we found work in a South Korean company. The work is hard, but the money is good – much better than I could earn as a domestic or as a labourer. Conditions are not so good. The supervisor shouts at us women and even pushes us sometimes. And we have no security. Two years ago I was in hospital for ten days, and off work for three months. The company promised me health benefit, but they never paid it. I am in debt now because of health costs. They gave me my job back, but I was sacked after one month when the manager found out that I was pregnant. I didn't receive any employment insurance. Now I have a new job. But I cannot feel secure."* (Watkins 2002:194)

Although women constitute the majority of the EOM workforce, they remain greatly under-represented within union membership. In part this occurs because many lack knowledge of the union's function. This reinforces perceptions of unions as male-dominated organisations, further limiting the likelihood of young women accessing them (ILO 1998:22).

## 9. WAGES AND OVERTIME

Much debate has centred on the low wages offered by EOM. Defenders of the current wage provisions argue that EOM regularly pay higher wages than equivalent domestically owned businesses. However, this fails to address the fact that wages frequently fall short of providing basic living requirements (Watkins 2002). In the words of Alfonso Cuadra, a former EPZ worker from Mexico, “the maquilas (EPZs) are not going to do anything about poverty here if they pay so little. We don’t want the maquilas to go away. We want them to pay a better salary” (Cox 2000:7).

One means by which workers can earn a living wage is by working considerable amounts of overtime, often breaching national labour laws. The hours worked by employees at the now defunct clothing manufacturer Bed and Bath Prestige Company (Thailand) illustrates the extremes of overtime work. The daily minimum wage in Bangkok was 160 Baht, but because factory workers were paid according to a target system, wages could be considerably less if overtime hours were not worked. Depending on the level of orders at the factory, some employees worked between 70 and 110 hours per week (Connor 2002b).

## 10. MONITORING AND IMPROVING WORKING CONDITIONS

The following steps have been taken in order to monitor the working conditions of EOMs and EPZs:

**Governments.** Ultimately, the responsibility of ensuring that workers’ rights are fulfilled lies with domestic governments by way of national laws and monitoring bodies (Watkins 2002:190). These will be ineffective without appropriate government funding to ensure their implementation<sup>4</sup>. However, as EPZs often rely on tax breaks to investors, the government receives little or no money from them. Consequently, the state is provided with no extra funding to monitor conditions within EPZs (Watkins 2002:181).

**TNCs and Codes of Conduct.** Most TNCs have voluntary codes of conduct which they urge their sub-contractors to implement. In certain instances, this has led to real improvements in working conditions. However, as long as these codes remain voluntary there is little incentive for implementation.

Such codes of conduct lack credibility when there is an inherent contradiction between codes of conduct and the market conditions created (Watkins 2002:198). In other words, seeking low cost production together with short lead-in delivery times is in opposition to the principles embodied in the codes of conduct. Further, these codes are often found to be weak, making no reference to internationally recognised human rights standards, the right to organise or bargain collectively (CCC 1998:23).

**Multi-stakeholder Initiative.** A more concerted effort to ensure the fulfilment of workers’ rights has come in the form of multi-stakeholder initiatives such as the FairWair Foundation, the Fair Labour Association, the Ethical Trading Initiative and SA8000. These initiatives involve human rights groups and unions participating in monitoring and verifying whether companies are keeping to an agreed set of standards. While these initiatives have their shortcomings, they offer more credible progress than codes of conduct that companies administer themselves. Importantly, MSIs incorporate ILO Core Conventions rather than the often vague and company-specific ethics of company codes of conduct.

**ILO.** The ILO has the power to monitor and report on governments’ performance regarding their compliance to human rights and to engage with non-compliant

governments in dialogue over inadequate performance. It also has a complaints mechanism under Article 26 of its Constitution whereby complaints against governments can be brought before ILO delegates. Due to a lack of political will, however, both of these mechanisms have proved to be insufficient in promoting better labour practices in the countries in question.

**OECD Guidelines.** The OECD formulated a Declaration on International Investment and Multinational Enterprises in 1976 that was revised in 2000. The Declaration, which includes the ILO's Core Conventions, is a voluntary set of standards to be used by companies operating internationally. While providing a useful common framework, these guidelines remain rather ineffective as they are only voluntary and rely on the political will of the government for implementation. Also, it has proven difficult to monitor an OECD company's adherence to the guidelines in non-OECD countries.

## KEY RIGHTS AFFECTED

Of the various core labour rights stipulated by both the UN and the ILO, those relating to trade unions, wages, discrimination, dismissal laws, rest and overtime hours are the focal point of this chapter. These labour rights are isolated for the purpose of illustrating some of the main concerns facing young workers and do not represent an exhaustive account of the rights being impacted by EOMs.

Article 23 of the Universal Declaration of Human Rights (UDHR):

- i. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- ii. Everyone, without any discrimination, has the right to equal pay for equal work.
- iii. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

In order to ensure that women's right to work is not prejudiced by their marriage or maternity status, the Convention on the Elimination of All Forms of Discrimination Against Women, Article 2 requires that state parties take appropriate measures:

- i. To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- ii. To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- iii. To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.

## FREEDOM OF ASSOCIATION

The right to freely associate with a group of one's own choosing in order to achieve a common goal was proclaimed in the UDHR, Article 20.1: "Everyone has the right to freedom of peaceful assembly and association". More specifically, in Article 23.4, "Everyone has the right to form and to join trade unions for the protection of his interests". This was also entered into the Freedom of Association and Protection of the Right to Organise Convention, 1948 (ILO No. 87, Article 2). One of the fundamental ways in which trade

unions can exert their power is by striking which is enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 8(1)(d).

The institutional prerequisites for the fulfilment of the right to free association are spelled out in the Right to Organise and Collective Bargaining Convention, 1949 (ILO No.98). The right is reaffirmed in the Declaration of Philadelphia of 1944 and later at the 1998 International Labour Conference. As noted by the ILO, “without the right to associate, whether exercised or not, the prospects for achieving social justice are poor” (ILO 1998: 128).

While other labour rights largely represent ends in themselves, the right to freely associate is a means of ensuring that other rights are realised. If one’s capacity to freely associate is hampered, this presents a significant obstacle to the fulfilment of other rights.

## RIGHT TO LEISURE AND REST, HEALTH AND SAFETY

The right to leisure and rest during work is articulated in the following instruments.

Article 24 of the UDHR: “Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay”. This right is made more concrete by the ILO, which specifies the right to an eight hour day or a 48-hour week, in Article 2 of the ILO Hours of Work (Industry) Convention, 1919 (No.1).

As discussed above, overtime hours that breach restrictions set by national laws is a common occurrence within EOMs. When compounded with a lack of rest during the working day, excessive working hours can lead to exhaustion and lack of concentration. This not only increases the likelihood of accidents in the workplace but also of contracting illnesses due to bodily fatigue.

A closely related right, is the right to a healthy and safe working environment. The Convention concerning Occupational Safety and Health Convention and the Working Environment (ILO No. 155, Article 4 & 16), places obligations on both member states and employers to protect the health and safety of people in the workplace.

The rights of pregnant women to a healthy work environment are specifically articulated by international human rights instruments. The Convention on the Elimination of All Forms of Discrimination Against Women, Article 2(d) enjoins State Parties “to provide special protection to women during pregnancy in types of work proved to be harmful to them”. This requirement is spelt out in more detail by the ILO’s C183 Maternity Protection Convention, Article 3.

## WAGES AND OVERTIME

Article 7 of the ICESCR calls upon state parties to recognise “the right of everyone to the enjoyment of just and favourable conditions of work”. In addition to safe and healthy working conditions, and periodic holidays with pay, the fulfilment of this right entails an adequate level of wages. Article 7(a) specifies “Remuneration which provides all workers, as a minimum, with:

- i. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
- ii. A decent living for themselves and their families in accordance with the provisions of the present Covenant.”

Frequently, workers choose excessive overtime without coercion from their employers due to the insufficient wages provided by standard working hours. The ILO seeks to oblige

member states to establish a system of minimum wages for all groups of wage earners. Article 1.1 of the Minimum Wage Fixing Convention, 1970 (ILO No. 131) states that “each Member of the International Labour Organisation which ratifies this Convention undertakes to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate”.

Breaches of the right to an adequate wage occur in two ways. First, there are cases of workers being paid under minimum wages rates. The second breach, and perhaps a more common one, is the problem of national minimum wages being insufficient to meet basic living needs. Many human rights activists have endorsed the concept of a living wage as more meaningful than the minimum wage. This idea is in fact implied by Article 3(a) of the Minimum Wage Fixing Convention which states that a minimum wage should take into account ‘the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups’.

## POLICY RECOMMENDATIONS

**GOVERNMENTS.** We urge governments to:

- 3.1 enact and enforce legislation consistent with ILO conventions and other standards. These rights should cover all workers including immigrant, domestic, part-time, temporary and home workers (Watkins 2002: 205).
- 3.2 strengthen and make consistent employment rights in EPZs with international norms (Watkins 2002:205).
- 3.3 increase funding to the ILO and other support to strengthen its supervisory and capacity building efforts.
- 3.4 ensure retrenched workers are provided adequate severance pay, retraining and other assistance.
- 3.5 provide adequate health and social insurance and pension schemes for workers and ensure that employers provide adequate maternity, sick and family leave.
- 3.6 ensure companies operating in other nations operate within legislation that sets standards for those companies including labour standards consistent with ILO Conventions, regular public reporting and independent assessment. Non-compliance must involve penalties including denial of government contracts.

**MULTILATERAL INSTITUTIONS.** We believe that multilateral institutions should assist governments in achieving these goals. Specifically:

- 3.7 the WTO’s Trade Policy Reviews (TPRs) should report on the impact of trade rules and practices on employment standards (Watkins 2002: 205).
- 3.8 the WTO must ensure the full and fair implementation of the Agreement on Textiles and Clothing (ATC) with appropriate provision for the poorest producers, and that governments abide by the spirit of the agreement and do not abuse its Transitional Safeguard Measures, Article 6 (TGWU: 9).
- 3.9 the WTO should clarify that legitimate ILO-endorsed trade sanctions cannot be challenged as an unacceptable barrier to trade under WTO rules.
- 3.10 the ILO should be granted observer status at the WTO, and coordination between the two should be strengthened.

**CORPORATIONS** It is recommended that corporations involved in the delivery of EOMs:

- 3.11 take active steps to implement the OECD Guidelines for Multinational Enterprises (Watkins 2002: 205).
- 3.12 set down principles in codes of conduct that include standards for purchasing and contracting practices of the retailing company itself, to ensure they do not make it difficult or impossible for suppliers to meet the standards required of them, particularly regarding wage levels and hours of work.
- 3.13 include within codes of conduct a commitment to: the rights to organise and bargain collectively; the standards set down in the ILO Conventions of maximum hours of work and health and safety; and the principles of the Convention on Elimination of Discrimination Against Women.
- 3.14 commit to paying workers a 'living wage'.
- 3.15 ensure codes of conduct are subject to monitoring and verification programs that are established in cooperation with workers, unions and NGOs, and are verified by independent organisations.
- 3.16 include within codes of conduct worker education to ensure that workers are aware of their rights under the code.
- 3.17 have a confidential and accessible complaints mechanism at all workplaces that is overseen by independent organisations.
- 3.18 ensure that factory visits by monitors are not announced to the factory in advance.
- 3.19 review and reschedule the production lead-time given to supplying factories (HKCIC 2002:24).
- 3.20 ensure gender specific training and legal education is made available to both management and female workers (HKCIC 2002:24).

**NON GOVERNMENTAL ORGANISATIONS.** We recommend NGOs:

- 3.21 play a central role in the monitoring and implementation of human rights standards within EOM workplaces.
- 3.22 be involved in programs designed to educate workers about their rights under national laws and the company codes of conduct.
- 3.23 oversee the creation of a complaints mechanism within workplaces, ensuring that it is both anonymous and accessible.
- 3.24 create campaigns designed to increase public awareness of labour rights abuses by particular companies. These campaigns should avoid negative outcomes such as order cancellations and job losses.

## **CASE STUDY: EPZS OR FDI? THE CASE OF COSTA RICA**

In the mid-1990s, Costa Rica abandoned its passive policy on foreign direct investment (FDI) and set a new course. The goal was to integrate FDI into a national strategy for entering new high-technology markets, while simultaneously increasing local technological capacity and creating new skills. The aim was to develop human capital rather rely than cheap labour. Selective and targeted approaches to FDI replaced the 'open-door' approach of the past.

The new policy direction reflected a growing awareness that Costa Rica could not compete against other Central American countries on unskilled labour. Electronics

and related activities were seen as an alternative to traditional EPZ activity. The government invested heavily in expanding the Technology Institute of Costa Rica, and worked with the private-sector to identify strategic TNC partners in electronics and other knowledge-intensive industries.

Intel was identified as a potential catalyst for changing the nature of FDI. The company was seeking sites to locate a plant in Latin America, with Brazil and Mexico thought to be the favoured candidates. Rather than direct inducements for the investment, Costa Rica offered to invest heavily in new courses in micro-electronics at the Technology Institute. Following consultation with Intel, plans were developed for improving transport infrastructure, increasing electricity supply and providing the company with exclusive telecommunications facilities.

In 1996, Intel decided to build a \$300million semi-conductor assembly and testing site in Costa Rica. The company has now moved beyond assembly and testing to invest in a new centre for software development and the design of semi-conductors. It has also invested heavily in staff training, and in developing teaching and research facilities in universities and the Technology Institute.

Financial incentives played an important role in Intel's calculations as the government provided the company with subsidised electricity and a six-year tax holiday. Yet the incentives that a small country like Costa Rica can provide are dwarfed by countries such as Brazil and Mexico, while the tax holiday is short by Central American standards. Instead of seeking to integrate into the global economy on the basis of cheap labour, Costa Rica has attempted to develop more dynamic forms of comparative advantage.

The results have been impressive. Costa Rica exports more software per capita than any other country in Latin America, and has seen increased demand for skilled labour and raised real wages.

Note: this case study is sourced from Watkins (2002)

## REFERENCES

- Clean Clothes Campaign (CCC) (1998) *Nike Case*, [www.cleanclothes.org/companies/nikecase.htm](http://www.cleanclothes.org/companies/nikecase.htm), accessed March 2003.
- Connor, T. (2002a) *We are not Machines*, Nike Watch, Sydney.
- Connor, T. (2002b) *Nike in Thailand: Lern's Story*, Nike Watch, Sydney.
- Cox, S. (2000) "Free Trade Off", *The Georgia Straight*, February 24 to March 2, 2000.
- Dent, K. and Tyne, M. (2002) *Unravelling the MultiFibre Agreement (MFA)*, TIE Asia, Colombo .
- Habel, J. (1999) "Free Trade Across an Iron Curtain", *Le Monde Diplomatique*, 15 December 1999.
- HKCIC (2002) *The Hong Kong Toy Industry*, HKCIC, Hong Kong.
- ILO (2001) *Youth and Work: Global Trends*, ILO, Geneva.
- ILO Bureau for Multinational Enterprise Activities (1998) *Export processing zones: Addressing the social and labour issues*, ILO, Geneva.
- ILO Labour Law and Labour Relations Branch (1999), *Changes in Trading Patterns*, [www.ilo.org/public/english/dialogue/govlab/legrel/tc/epz/changes.htm](http://www.ilo.org/public/english/dialogue/govlab/legrel/tc/epz/changes.htm), ILO, Geneva.
- Maquila Solidarity Network (MSN) (2001) *Dispelling the Myths of Free Trade*, from [www.maquilasolidarity.org/resources/maquilas/dispellingmyths.htm](http://www.maquilasolidarity.org/resources/maquilas/dispellingmyths.htm).
- Moen, D.G. (1998) *Dolls and Dust*, Shibaura Institute of Technology, Shibaura.
- Sajhau, J.P. (2000) *Labour practices in the footwear, leather, textiles and clothing industries*, International Labour Organisation, South Korea.
- TGWU (2000) Phasing out the Multi Fibre Arrangement, [www.tgwu.org.uk/TGWUInternatEd/multi\\_fibre\\_arrangement.htm](http://www.tgwu.org.uk/TGWUInternatEd/multi_fibre_arrangement.htm), accessed March 2003.
- Watkins, K. (2002) *Rigged Rules and Double Standards: Trade, Globalisation, and the Fight Against Poverty*, Oxfam, Oxford.

1 For example, an analysis of the operations of Nike and Adidas in Indonesia can be found in, 'We are Not Machines,' by Tim Connor, 2002. For a report on the human rights issues in the Hong Kong toy industry see the report by the Hong Kong Christian Industrial Committee, 'The Hong Kong Toy Industry,' 2002. "Nike Case," by the Clean Clothes Campaign, 1998, provides a systematic analysis of human rights abuses by Nike in Asia.

2 For example union participation in the Bataan EPZ (Philippines) has increased to 85 per cent.

3 Supporting the idea of a conflict between TNCs and unions was a 1998 ILO survey of 200 companies' codes of conduct, it was found that while over 60 percent of these codes made reference to the issue of discrimination, less than 20 percent included the right to freedom of association and bargaining.

4 The responsibility of State Parties to the International Covenant on Economic, Social and Cultural Rights to fulfil the right of work of their citizens, is outlined in Article 6 of the ICESCR.