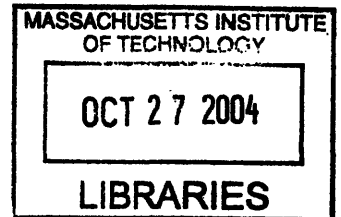


**Unexpected Victories:
Protecting Workers' Rights in Guatemala's Apparel-for-Export Sector**

By

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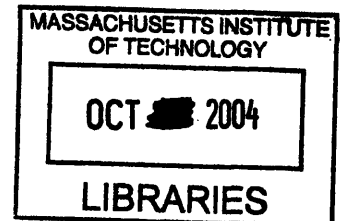
Submitted to the Department of Urban Studies and Planning
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at the

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September 2004



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ABSTRACT

This thesis examines three surprise victories for workers' rights in the Guatemalan garment sector. In the past three years, three unions have formed at the Choishin, Cimatextiles, and Nobland factories and each has negotiated a collective bargaining agreement. This thesis explores why these victories were possible given the general context of globalization and the economic and institutional context of Guatemala.

I have proposed a model that describes the dynamic approach that allowed the unions to form and negotiate the only collective bargaining agreements in Guatemala's apparel-for-export sector. These unions were successful because cross-border union organizing, corporate codes of conduct, independent monitoring, and government enforcement were dynamically combined. This thesis also demonstrates how the new synthesized model accounts for differences across the three cases.

These cases provide a series of lessons for protecting workers' rights. But the most salient lesson from Guatemala is that, under certain conditions, victory for labor rights is possible; it is possible to maintain garment sector employment while increasing respect for workers' rights. And if this sort of victory is possible in Guatemala, then it seems possible anywhere.

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ACRONYMS

AFL-CIO:	American Federation of Labor–Congress of Industrial Organizations
CAFTA:	Central American Free Trade Agreement
CBA:	Collective Bargaining Agreement
CBI:	Caribbean Basin Initiative
COVERCO:	Commission for the Verification of Corporate Codes of Conduct
FESTRAS:	Federacion Sindical de Trabajadores de la Alimentación, Agro-Industrias y Similares (Guatemalan Union Federation)
FLA:	Fair Labor Association
GSP:	General System of Preferences
ICFTU:	International Confederation of Free Trade Unions
ITGLWF:	International Textile, Garment and Leather Workers’ Federation
ILO:	International Labor Organization
ILRF:	International Labor Rights Fund
IRRC:	Investor Rights Responsibility Center
LCI:	Liz Claiborne Inc.
MINUGUA:	UN Verification Mission in Guatemala
MNC:	Multinational Corporation
NB:	Nobland
NGO:	Nongovernmental Organization
PVH:	Phillips Van Heusen
SITRACHOI:	Sindicato de Trabajadores de Choishin (Choishin Union)
SITRACIMA:	Sindicato de Trabajadores de Cimatextiles (Cimatextiles Union)
SITRANB:	Sindicato de Trabajadores de Nobland (Nobland Union)
STITCH:	Network of US women unionists, organizers, and activists that seeks to build connections between Central American and US women organizing for economic justice.
US/LEAP:	US Labor Education for the Americas Project
USTR:	US Trade Representative
WRC:	Workers’ Rights Consortium

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CHAPTER 1: INTRODUCTION

The unexpected has occurred in Guatemala.

Given the realities of globalization and Guatemala's history of brutal repression against unions, workers in Guatemala's apparel-for-export sector faced seemingly insurmountable challenges in organizing themselves to improve their working conditions. *And yet*, in the past three years, three unions have formed in Guatemala's garment factories and negotiated the only collective bargaining agreements in the country's sector.

Furthermore, given the ongoing and heated debate that pits unions and corporate codes of conduct against one another as the better way of respecting workers' rights, we would not expect that the two systems could coexist. *And yet*, workers were able to organize the first two unions in the Guatemalan garment sector at the Choishin and Cimatextiles (Choi/Cima) factories, where Liz Claiborne's corporate code of conduct was being actively monitored. In fact, Liz Claiborne (LCI) was the first apparel retailer in the world to implement a long-term independent monitoring program.

Finally, given its history of brutal repression of trade unions and diminished state capacity after thirty-six years of civil war, we wouldn't expect that the Guatemalan government would be willing or able to enforce the national labor code. *And yet*, the Guatemalan government intervened in a significant way in these three cases to bring about the direct negotiation of the collective bargaining agreements.

As I will describe in the next chapter (Chapter 2), these three Guatemalan cases are surprising given the general terms of the debate about how to protect workers' rights in the developing world (Section 2.1), and given the specific economic and institutional environment in Guatemala (Section 2.2). In essence, the terms of the debate on labor rights have established that:

- In the current global economic and institutional context it is nearly impossible for unions to form in apparel factories.¹
- Corporate codes of conduct and unions are incompatible means of protecting workers' rights.²
- Government intervention to enforce labor regulations is highly unlikely.³

Furthermore, Guatemala is an especially tough case for labor organizing because:

- Multinational corporations (MNCs) have come to exploit cheap labor, high quotas, low tariffs, and proximity to US markets.⁴
- The Guatemalan government has little enforcement capacity after thirty-six years of civil war.⁵
- There is a history of brutal repression of trade unions in the country.⁶

¹ See Arthurs (2001), Collins (2003), Esbenshade (2001), and Nadvi & Waltring (2002).

² Personal communication with David Morales, Director of FESTRAS. January 14 and February 3, 2004. Also see Compa (2001), Justice (2001), and Kearney (2003).

³ See Arthurs (2001), Collins (2003), Esbenshade (2001), and Nadvi & Waltring (2002).

⁴ See Barrie (2004), COVERCO (1999), and Varley (1998).

⁵ See Frundt (1998), Jonas (2000), MINUGUA (2000 and 2003), and Varley (1998).

And yet, today, three unions and three collective bargaining agreements exist in Guatemala's garment sector. The gains of the first two unions, Choishin and Cimatextiles, were billed as a victory, a limited victory, but a victory nonetheless. The third union at Nobland, however, was a much more forceful victory. In contrast to the Choi/Cima unions, the Nobland union achieved a membership rate of nearly fifty percent of factory workers, reached contract negotiations in record time, and finalized their collective bargaining agreement in the spring of 2004.

This thesis will explore the factors that allowed these successes against the odds, given the reality of the current economic and institutional context in the world in general and in Guatemala specifically. It will ask whether the victories can be explained by the various models for protecting workers' rights or if can we learn some new lessons for respecting labor rights. It will consider whether we can synthesize a model for a strategy that goes beyond the terms of the current debate. And finally, it will cull a series of lessons that might provide insight for protecting workers' rights in other countries.

1.1: Methodology

The research for this project was conducted in the Guatemala City metropolitan area in January and March 2004. Initial conversations with the Maquila Solidarity Center in Canada pointed me to the Choishin and Cimatextiles factories as potential case studies. I then spent the month of January in Guatemala City, where I interviewed union leaders, external union organizers, factory management, representatives of Liz

⁶ See Frundt (1998), Goldston (1989), MINUGUA (2000 and 2003), and Varley (1999).

Claiborne, government officials, labor inspectors, and independent monitors associated with the Choi/Cima case (see Appendix A for a list of interviews). I was also fortunate enough to visit the Choishin factory during a work day, and on another day, observe a Cimatextiles union committee meeting.

Through the Ministry of Labor, I was also able to gain access to almost three years worth of official government filings on the case. These documents could then be compared with the details gleaned from interviews and from public independent monitoring reports. Using all of these sources, I compared the story of the formation of the unions from all perspectives, trying to triangulate an objective explanation of each case.

As I explored the history of the Choi/Cima unions (SITRACHOI and SITRACIMA), I heard of the newly formed Nobland union (SITRANB). In January, I was able to learn enough about this case to become very interested, so I decided to return to Guatemala in March to explore this second case further. I was once again able to interview union leaders, external union organizers, government officials, labor inspectors, and independent monitors associated with the Nobland case (see Appendix A for a list of interviews); however, despite repeated attempts, I was unable to interview the factory management or the MNCs that source with the factory.

Nonetheless, the March trip was important for the exploration of the government's role in the three cases. The new Ministry of Labor officials were unavailable in

January, but quite available and interested in speaking with me in March. Furthermore, the Nobland case had progressed further by the time I returned in March; the SITRANB union and management were in negotiations and a collective bargaining agreement was in sight. While my investigation of the Choi/Cima case was more historical, I was able to learn about the Nobland case as it developed and talk to the actors as they made key decisions.

Because I spent a total of six weeks in Guatemala over the course of two visits, I was able to interview the same individuals on multiple occasions and press for greater detail as my understanding of the cases developed. I was also able to trace changes within the factories, unions, and campaigns over time. However, I did face difficulties in gaining access to all actors, particularly the Nobland management. Furthermore, I must be cautious in interpreting my interviews. Because of the high stakes of the campaigns and negotiations, i.e. potential loss of reputation or business for the MNCs and local factories, and physical dangers for the workers and unions, it is possible that all the parties were not able to speak freely with me about the cases. However, I am confident that the triangulation methods I used allowed me to get to the heart of these stories.

1.2: What This Research Does Not Undertake

This thesis does not try to demonstrate that one approach is conclusively more effective in improving working conditions in the developing world. Given the scope of my research, the amount of time available, and the level of access granted to me by companies, that sort of conclusion would not be possible. While it might be

interesting to demonstrate that unions do indeed improve working conditions, I was not able to conduct my own inspections of the factories, a step that would be required to reach such a conclusion. Furthermore, while the presence of the union and collective bargaining agreement at Choishin and Cimatextiles appears on the surface to have improved working conditions, not enough time has passed since the signing of the Nobland agreement to assess changes in its conditions.

Instead, this thesis addresses the ways in which strategies can be combined to protect workers' rights in the developing world. These rights have been established by the International Labor Organization (ILO), a group created by the international community to define international labor standards. The ILO Core Labor standards include two conventions on freedom of association and collective bargaining.⁷ The group of core labor standards have been ratified and incorporated into the labor codes of at least 120 nations, including Guatemala.⁸

Historically speaking, independent trade unions and contracts have been the demonstrated means of allowing workers to protect their own right vis-à-vis the power of management. Jane Collins, Professor of Sociology at the University of Wisconsin–Madison explains that “advances such as the forty-hour week, the minimum wage, and health and safety rules did not simply evolve in the industrialized nations, and they were not the result of the largesse of industry leaders. They

⁷ Convention No. 87 on Freedom of Association and Convention No. 98 on the Right to Organize and Collective Bargaining. The other ILO core conventions cover forced labor, child employment, fair wages, and nondiscrimination. ILO (2004).

resulted from workers' protest and national dialogue about what was right and fair."⁹ For example, in the early 20th century, labor stability was achieved in the US garment sector through union bargaining of a collective contract. Andrew Ross, Professor and Director of American Studies at New York University, argues that this is where the prototype of the collective bargaining agreement emerged.¹⁰

However, this thesis measures the successful protection of workers' rights by more than just the presence of a union. I define success as the unions' ability to make demands on management and negotiate labor benefits. Success is not just compliance with minimum labor rights, but also the ability of the unionized workers to attain negotiation that will allow them to improve their benefits above those required by law. In this definition of success, the formation of a union becomes one of a series of factors that allows for protection of workers' rights, the ultimate goal.

1.3: Preview of Findings

In 2003, the Choishin and Cimatextiles unions attained partial success. The unions negotiated the only collective bargaining agreements in the Guatemalan garment sector at the time. However, this should be considered a limited success, according to my definition, because although they now have institutions in place to protect workers' rights, they still have limited leverage vis-à-vis management to improve their working conditions. They have limited leverage because the collective bargaining agreement was required by the government to improve Guatemala's

⁸ This accounts for seventy percent of the ILO's membership. Only seventy-seven members have ratified the Core Convention on Child Labor (No. 138). Bates (2000).

international trade image and not because the union could demand it legally. However, the partial victory thesis is supported anecdotally by improved working conditions in the factories.

In the Nobland case, I witnessed a more complete success for protection of workers' rights. The Nobland union is powerful both in terms of numbers and bargaining ability. It negotiated a collective bargaining agreement in record time and engaged the government productively in the process. The workers attained negotiation that allowed them to improve their conditions above those required by law, i.e. they gained permission for time off to care for sick children, permission for medical leave, fairer treatment, cleaner bathrooms, and childcare.

As described above, these successes are surprising given the reality of the current economic and institutional context in the world in general and in Guatemala specifically. This thesis, therefore, provides a multifaceted explanation of the factors that allowed for successes against the odds. In brief, these unions were successful because cross-border union organizing, corporate codes of conduct, independent monitoring, and government enforcement were dynamically combined. These cases were dynamic because they included the workers as active participants in the protection of their rights; did not rely entirely on corporate codes of conduct and pressure on the local factory from the MNC; did not give up on the possibility that the government can enforce local labor laws; and acknowledged that independent

⁹ Collins (2001): 187.

monitoring, unions, and government enforcement can be combined for positive results.

First of all, the presence of the union was the essential building block of the campaign and demonstrated respect for freedom of association. The unions used conflict sparingly and only as necessary to attain collective bargaining negotiations. They developed new strategies to target both the MNC and the Ministry of Labor. The support they received from their international allies was also essential for opening the space in which they could maneuver.

Second, the engagement of the government was achieved through coordination national and international pressure and was essential for the protection of the rights to freedom of association and collective bargaining. This engagement was attained by leveraging international trade pressures. Finally, the provision of trustworthy information by an international monitor was essential to engaging the multinational buyers and convincing them not to cut production and leave Guatemala.

These cases provide a series of lessons for protecting workers' rights, including that transnational advocacy strategies are essential for opening spaces for local action; that coordinated national and international pressures can motivate the national government to get involved in labor rights; that independent verification by a trusted source can be an important key for gaining respect for unions; and that conflict

¹⁰ Ross (1997).

should be used as a means of attaining collective bargaining and then be held in reserve as a threat.

1.4: Overview of Chapters

Chapter 2 sets the stage for the three case studies by describing the general terms of the debate on protecting workers' rights in the developing world (Section 2.1) and the specific economic and institutional environment in Guatemala (Section 2.2).

Chapter 3 provides a complete overview of the Choi/Cima and Nobland cases. This description of the case studies will allow the reader to understand how a union formed in each factory, how each union arrived at collective bargaining agreements, how independent monitoring was carried out at each factory, and how the Guatemalan government participated in each case. These descriptions will also allow the reader to understand the similarities and differences across the cases.

After establishing this foundation, I explore whether the successes can be explained by the various existing models for protecting workers' rights (Chapter 4). I demonstrate that each body of literature relating to improving labor conditions (i.e. lobby government to enforce labor laws, implement corporate codes of conduct and independent monitoring, and organize cross border union campaigns) is individually inadequate to explain the occurrences in Guatemala's apparel sector.

After demonstrating the limitations of these explanations, I synthesize a model for a combination strategy that goes beyond the terms of the current debate. This model

combines the three strategies for protecting workers' rights: (1) government enforcement, (2) union organizing, and (3) corporate codes of conduct/independent monitoring. The goal of the approach is to gain respect for freedom of association and collective bargaining without allowing the factory owners or multinational buyers to cut production and leave the country. The multidimensional approach provides an organized local worker presence in the factory, but also focuses local and international pressure through the MNC and government to squeeze the local factory. In this model, corporate codes of conduct are an important source of leverage on the MNCs, and independent monitoring is used to corroborate reports from workers, unions, and their international allies and supply trustworthy information to the MNCs.

In Chapters 5 and 6, I flesh out the cases to demonstrate in detail how each of aforementioned surprise victories can be best explained by this new model. I also demonstrate factually that the differences across the cases can be best explained using this model. Specifically, Chapter 6 demonstrates that the Nobland union used the same model as the Choi/Cima unions, but was more successful because it was able to avoid much of the conflict that ensued in the first two cases. I argue that there was less conflict because the unions' allies had learned significant lessons from the previous cases; the target actors had learned what to expect from the union and its allies and therefore responded to the threat of the model; and the workers at the Nobland factory had an organizing background and a community behind them.

In conclusion (Chapter 7), this thesis proposes new lessons for respecting labor rights that might provide insight for factories in other countries. If these labor rights successes were possible in the unlikely Guatemalan context, then these cases provide hope for protecting workers' rights in the garment sector across the globe.

CHAPTER 2: BACKGROUND AND REVIEW OF LITERATURE

The 1990s saw the dawning of popular resistance to unchecked market liberalization and corporate globalization as MNCs began to relocate their production facilities overseas in search of the lowest wages. A group of activists and academics have argued that as barriers to trade have been eliminated throughout the world and markets have been liberalized in recent decades, global capital has been freed from the traditional regulatory constraints of the nation state.¹¹ This group makes a case that the restructuring of production and distribution networks, trade liberalization at the global and regional levels, and deregulation policies of governments have created a situation in which “southern firms are locked into a downward spiral of competition based on lowering wages and flouting of labor and environmental standards,” i.e. a *race to the bottom*.¹²

However, this matter is far from decided. In fact, the questions of which groups benefit and lose from globalization and how globalization has affected the conditions of labor in the developing world are open to vigorous debate.

2.1: The Context of the Debate

This section will examine this debate by considering the following questions: What has globalization meant for the garment sector in the developing world? Who has gained and lost from these changes? Once we have laid out the terms of these

¹¹ For example, Strange (1996) and Schmidt (1995).

¹² Nadvi & Waltring (2002): 4 and Jeffcott & Yanz (1999).

discussions, we will focus on the topic of how to protect workers' rights in the developing world.

Who Benefits and Who Loses from Globalization?

In the era of economic globalization, MNCs have disintegrated the traditionally vertical supply chains, maintaining control of design and marketing operations in the industrialized countries while outsourcing more labor-intensive production facilities to the developing world.¹³ A company like Liz Claiborne (LCI), for example, now functions within a global apparel supply chain network and no longer directly employs the workers who produce the clothing that bears the LCI label.

A group of academics and activists have argued that these transformations have created a *race to the bottom*, and they point to three fundamental changes to the global economic system: (1) *Trade liberalization at the global and regional levels*: The international trade policies of the World Trade Organization have limited national governments' ability to regulate trade based on social or environmental standards; (2) *Deregulation policies of governments*: the neo-liberal project to construct a free-market economy has encouraged national governments to decrease regulation and give corporations more leeway with respect to pollution and wages; and (3) *The convergence of globalization and restructuring of production and distribution networks*: As trade restrictions have lifted and global supply chains have lengthened, competition has increased between countries to attract foreign direct investment. In

¹³ Gereffi, Spener, and Bair (2002).

conjunction with WTO policies, this competition has encouraged nations to lower their environmental and labor regulations, thereby feeding the *race to the bottom*.¹⁴

Within the globalization debate, two kinds of arguments have been advanced in opposition to these *race-to-the-bottom* claims. The first set of arguments holds that globalization does not weaken state protections. For example, Dani Rodrik has demonstrated a correlation between openness to trade and size of government.¹⁵ His study seems to contradict the belief that globalization and free trade have made countries more vulnerable to the whims of the market.

The second set of arguments against the *race to the bottom* is that free trade is good for lesser-developed countries because it brings jobs and development. Free-trade economists argue that unrestricted trade benefits workers in the developing world by increasing exports and therefore jobs. From this perspective, any job is better than no job and industries such as the apparel sector are as rungs on the ladder of development.¹⁶ This type of development allows a developing country to benefit from its comparative advantage in cheap and plentiful labor.¹⁷ This view also proposes that protection of labor rights will naturally improve over time. Furthermore, these free trade proponents reject the claim that countries compete by lowering environmental and labor standards. Dr. Jagdish Bhagwati¹⁸, for example, cites evidence that

¹⁴ Jeffcott and Yanz (1999), O'Rourke 2003, and Schmidt (1995).

¹⁵ Rodrik (1998).

¹⁶ Bhagwati (1995). Also see Paul Krugman, Daniel Griswold, and Jeffrey Sachs.

¹⁷ Collins (2003).

¹⁸ Dr. Bhagwati is a Professor at Columbia University and Senior Fellow in International Economics at the Council on Foreign Relations. He was Economic Policy Adviser to the Director General, GATT and

corporations do not make locational decisions based on the level of environmental standards.

Dr. Bhagwati also rejects demands for universal labor standards on the grounds that they are protectionist, i.e. proposed by richer countries trying to protect themselves from those developing countries with comparative advantage in low-wage, unskilled labor. He contends that the campaigns of moralistic activists from the global North to implement paternalistic protections will rob the developing world of essential jobs that are better paying than most domestic employment.¹⁹

A third perspective in the debate argues that both the 'globophobe' and 'globophile' arguments simplify the complex conditions that workers in the developing world face. For example, academics like Nadvi & Thoburn have demonstrated that not all countries have competed in the global economy by lowering standards.²⁰ From their perspective, therefore, the real question is not whether labor standards are inherently protectionist or whether they automatically lead to industrial upgrading, but rather, under what conditions does compliance with standards lead to such upgrading? Nadvi gives us the example of Pakistan where compliance with child-labor standards led to upgrading of the soccer-ball manufacturing sector. In this case, the collective implementation of standards improved the competitive position of local soccer-ball producers.

also served as Special Adviser to the UN on Globalization and External Adviser to the Director General of the WTO.

¹⁹ Bhagwati (1995).

²⁰ Nadvi & Thoburn (2003).

The US-Cambodia Bilateral Textile Trade Agreement case also demonstrates that garment firms and garment workers in both the developed and developing worlds can benefit simultaneously from trade under certain conditions. Because this trade agreement linked increased access to US textile markets for its exports to increased protection of labor rights, Cambodia could economically profit from protection of workers' rights. As Professor Regina Abrami of Harvard Business School points out, this case demonstrated that the "protection of workers' rights did not come at the price of economic development."²¹

Along similar lines, the non-governmental organization Oxfam International has argued that free trade does not have to be detrimental to the developing world. It contends that while free trade is essential for development, the trade rules are rigged against the developing world.²² Therefore, Oxfam proposes that the world trade system be reformed so that the developing world can gain from trade on more equal footing, and so that the rights of workers in these countries can be protected. When these workers are allowed to speak for themselves, they emphasize the economic importance of access to global markets, but also express alarm at the conditions in which they work; as Bangladeshi sewing-machine operator, Nawaz Hazari, explains:

In my village we were very poor. I came here to find a better life. Today I have more money. My job here means that I can give my children an education, and we are not hungry. They will have the chance of a better home. But work in the factory is hard. We are not well treated. And if we become sick, we have no protection. Do people in your country think about our condition when they buy the shirts we make?²³

²¹ Abrami (2003).

²² Oxfam (2002).

²³ As quoted in Oxfam (2002).

How Do We Protect Workers' Rights?

How, therefore, does one improve the position of workers in the developing world given the current political and economic constraints imposed by economic globalization? How is it possible to give workers the option to

continue working in export factories, together with the assurance that this employment will take place in a situation which defends their dignity, ensures appropriate remuneration, avoids arbitrary and inhumane treatment, guarantees freedom of association and collective bargaining and protects them from harm, in terms of both violence and harassment at work and unhealthy working conditions and processes?²⁴

It's a tall order, but an important task. How can a developing nation keep jobs, but make them better jobs?

This thesis is framed in the context of a heated debate about which strategies and mechanisms are most appropriate for guaranteeing the protection of workers' rights among unskilled laborers in developing countries. Various models have been proposed with supporters of each mechanism extolling the advantages of that model over other means. None, however, has demonstrated conclusively which mechanism is most effective. Rather, they have created a vigorous debate about how to protect workers' rights in an increasingly liberalized global economy.

The debate reveals a negotiation among three approaches to protecting labor rights in the developing world: (1) building state capacity for regulation, monitoring, and enforcement of national labor codes, (2) non-governmental regulation, such as

²⁴ Pearson and Seyfang (2002): 44.

corporate codes of conduct, enforced through independent monitoring, and (3) workers organizing to form independent trade unions.²⁵ The following subsections will summarize the strengths and limitations of each of these approaches in turn.

Building State Capacity

Those who believe that corporate globalization is leading to a *race to the bottom* see little potential for national governments to regulate, monitor, or enforce national labor laws in the current global economy. For example, Harry Arthurs (Professor of Law & President Emeritus, York University, Toronto, Canada) explains that globalization has moved much labor regulation beyond the scope of national governments because it “has weakened the political legitimacy and practical effect of national labor law, and has inhibited, rather than promoted, the development of new labor law systems that might respond to the realities of transnational economic activity.”²⁶

However, as a challenge to this belief, Professor Regina Abrami of Harvard Business School (as described above) has demonstrated that state capacity to protect workers’ rights can indeed be built under certain conditions.²⁷ Her case study on the US-Cambodia Bilateral Textile Trade Agreement showed that if such an arrangement can be achieved in a country as devastated as Cambodia, then there is hope for other countries. Professor Abrami argues that Cambodia was able to attain this type of scenario because market access was linked to labor rights and an ILO monitoring

²⁵ Esbenshade (2001).

²⁶ Arthurs (2001): 284.

arrangement was in place. In this case, regulation of labor standards through trade was not a means of protectionism, but rather a way to allow Cambodia to upgrade its garment sector while increasing the national government capacity for protecting workers' rights.²⁸

Corporate Codes of Conduct

In response to the perceived decreasing effectiveness of national labor law and *race to the bottom*, non-governmental systems of labor regulation have emerged, taking the form of corporate codes of conduct, production guidelines, monitoring standards, certification bodies, and seals of approval.²⁹ For example, two well-known certification bodies have been formed for the international garment sector, the Fair Labor Association (FLA) and the Workers' Rights Consortium (WRC).

These monitoring and certification arrangements have emerged out of the concerns that current national regulations are not working and that enforcement is not likely to improve given the current global economic context.³⁰ As part of this shift, the *social accountability contract* of corporate codes of conduct and monitoring has replaced the traditional social contract between workers, management, and government.³¹ The imbalance of power between the three strategies of combating sweatshops—(1) government enforcement, (2) worker organizing, and (3) corporate codes of conduct—has led toward the predominance of codes of conduct and monitoring;

²⁷ Abrami (2003).

²⁸ Ibid.

²⁹ Gereffi, Garcia-Johnson, and Sasser (2001), Nadvi & Waltring (2002), and O'Rourke (2003). Similar systems have also emerged in the fair trade and forest product sectors.

³⁰ Gereffi, Garcia-Johnson, and Sasser (2001): 56-57.

“Enforcement, which relies on the power of local government, and organizing, which depend on the power of workers, are both floundering while corporate campaigns and monitoring, which rely on publicity and consumer/investor power, is on the upsurge.....”³²

Given the international institutional context described above, the advantage of a code of conduct lies in the fact that corporations are held to the same standards in all countries and that labor activists are able to demand accountability from the international brand name buyers that don’t technically employ the workers.³³ The key aspect of corporate codes of conduct, in particular, is that they commit international brand-name buyers to monitoring their entire supply chain and verifying that all clothes that bear their label have been produced under humane and ethical conditions.

These non-governmental regulations have gained support from non governmental organizations (NGOs) that have traditionally been wary of market mechanisms and privatized regulation. These advocates for workers’ rights began to look towards certification and monitoring systems after they had been frustrated by multiple failed attempts to get national governments to regulate labor conditions or create universal regulation on the international level. From their perspective, given the realities of

³¹ Esbenshade (2002).

³² Esbenshade (2002): 112

³³ Jeffcott and Yanz (1999).

today's global economy and institutional context, non-governmental regulation is an appealing supplement to government regulation.³⁴

On the other hand, some critics see codes of conduct as inherently supporting the withdrawal of government from labor enforcement. They fear that corporate codes of conduct will supersede the roles of states and international organizations in regulating corporations in an era of globalization.³⁵ Furthermore, they question if civil society advocates aren't just the "useful idiots of globalization."³⁶ For example, voluntary certification initiatives may actually serve as a substitute for statutory national regulation and therefore legitimize the absence of national enforcement.³⁷ This would be possible if corporate codes of conduct and independent certification allow corporations to avoid a "nightmarish scenario of stringent and often contradictory regulations in country after country" or to preempt the development of enforceable international labor laws.³⁸

As such, these critics see codes of conduct as nothing more than a public relations tool used to trick consumers into thinking that companies are socially responsible. Neil Kearney, President of the International Textile, Garment, and Leather Workers' Federation (ITGLWF), emphasizes that while some codes are good, "the vast majority are not worth the paper they are written on....A great many of these are general in

³⁴ O'Rourke (2003): 3-4, 7.

³⁵ Gereffi, Garcia-Johnson, and Sasser (2001).

³⁶ Rieff (1999).

³⁷ Jenkins, Pearson & Seyfang (2002).

³⁸ Gereffi, Garcia & Sasser (2001): 59.

nature and meaningless in practice, in reality a public relations exercise and very frequently a fig leaf for continued exploitation.”³⁹

The most vocal critics believe that codes of conduct are implemented by companies in an effort to prevent workers from joining trade unions.⁴⁰ For example, many trade unions suspect that corporate codes of conduct and independent NGO monitoring are part of an agenda which intends to undermine the organizing and bargaining roles of trade unions.⁴¹

Professor Jill Esbenshade of San Diego State University voices the major critique of codes of conduct—that this new accountability contract does not “actively engage these workers in any participatory defense of their rights.”⁴² Along similar lines, Dwight Justice of the International Confederation of Free Trade Unions (ICFTU) points out that “codes of conduct are not as efficient as what workers can do for themselves where they are permitted to join free trade unions and to bargain collectively with their employer in the knowledge that their rights are secure and protected.”⁴³

Furthermore, codes of conduct make workers objects of regulation rather than political subjects or partners in determining what conditions are most important and what requirements are appropriate. Because codes often do not prioritize the aspects

³⁹ Kearney (2003).

⁴⁰ Compa (2001), Justice (2001), and Kearney (2003).

⁴¹ Compa (2001).

⁴² Esbenshade (2001).

⁴³ Justice (2001).

of the work environment that are most important to workers and because codes are limited to branded industries, workers see codes as the second best option.⁴⁴

Neil Kearney summarizes the criticisms when he says that corporate codes of conduct “can not substitute for good law or social dialogue....they can not replace sustainable protection for working people and their families. They can not replace either the duty of governments to protect their citizens through the enforcement of good law that complies with the ILO standards, nor the sustainable protection that flows from social dialogue between employers and trade unions.”⁴⁵

Cross-Border Organizing

Union organizers who, like Kearney, criticize the intentions and methods behind corporate codes of conduct and independent monitoring, propose instead a model of cross-border organizing that protects workers’ rights while also giving them a voice. Mark Anner, former coordinator of the El Salvador Independent Monitoring Group (GIMES) and current PhD candidate in the Department of Government at Cornell University, explains that “labor in globalized production regimes is beginning to pursue its demands in innovative ways by developing ties to new allies both within and across countries.”⁴⁶ This innovation has developed a cross-border organizing model that simultaneously targets the point of production in one country and the point of consumption in another. Through this model, workers and unions hope to negotiate for themselves while ensuring that MNCs do not cut and run.

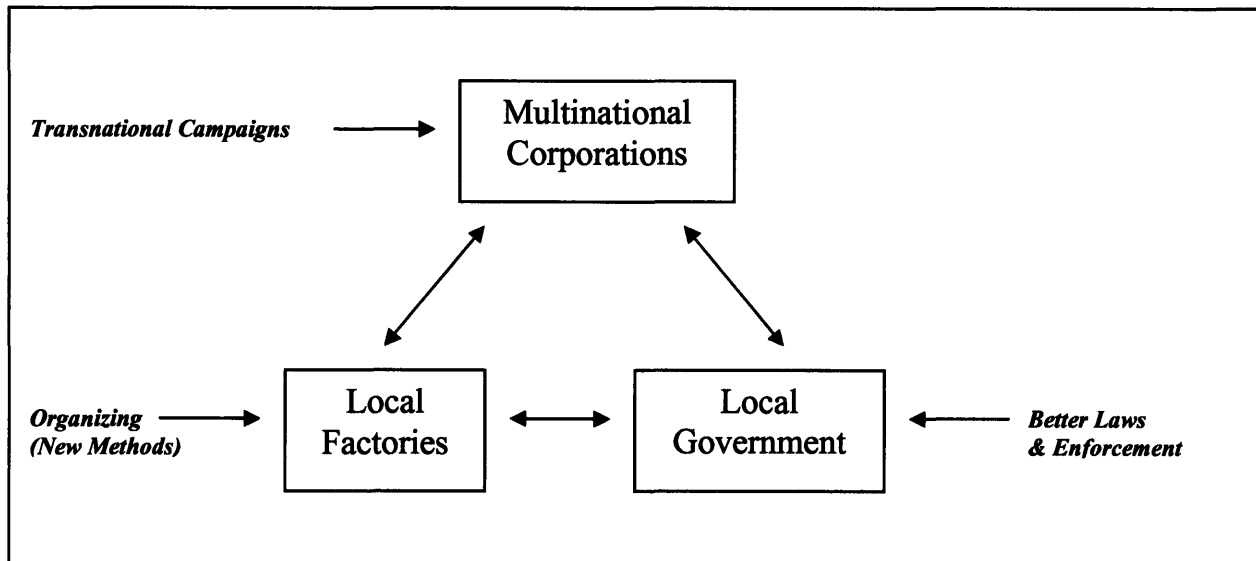
⁴⁴ Jenkins, Pearson, and Seyfang (2002).

⁴⁵ Kearney (2003).

⁴⁶ Anner (2000): 239.

Anner frames the cross-border organizing model in relation to a triangle of power (see Figure 2-1).

Figure 2-1⁴⁷
Unions and NGO Strategy for Organizing & Improving Conditions
in Garment Assembly Plants



The three points of the triangle are (1) the multinational buyers, (2) the local factory management, and (3) the local government. The strategy targets the three points of the triangle simultaneously through (1) transnational corporate campaigns, (2) new methods of organizing, and (3) better laws and enforcement. It uses international consumer and investor pressure to create space for successful local union organizing and local government labor law enforcement.

The focus of Anner's work is the development of national and international allies and the use of norms that resonate in the US to create consumer pressure. In other

⁴⁷ Figure 4 from Anner (2001): 35.

words, he documents the strategies that engage with the first point of the triangle, the brand name corporation. He briefly mentions the strategies for targeting the second point of the triangle—unions are using new methods of organizing—and the third point of the triangle—local unions and NGOs are pressuring their governments to improve or enforce labor laws.

This model has several strengths, namely that it describes the leverage points in the global garment industry and highlights the importance of the multidimensional pressure applied on key actors. Furthermore, it explains the significant support that unions receive from their international allies, it includes government as an actor, and it documents the new organizing methods used by local unions.

Henry Frundt⁴⁸ bolsters Anner's triangle of power, cross-border organizing argument, explaining that successful cross-border unionization requires the combination of effective local organizing and transnational activists.⁴⁹ While Anner focuses on the use of international allies, Frundt emphasizes how new organizing tactics which combine legal strategies and on-the-ground action have been successful in the Dominican Republic, Guatemala, and Honduras. Both Frundt and Armbruster-Sandoval⁵⁰ describe how the Phillips-Van Heusen organizing campaign in Guatemala in the 1990s demonstrated the benefits of cross-border labor cooperation, international solidarity, trade pressure, and the combination of on-the-ground worker struggle and

⁴⁸ Dr. Frundt is a Professor of Sociology at Ramapo College of New Jersey, an expert on Central America, and the author of a book on Guatemalan labor conditions.

⁴⁹ Frundt (1999).

international action.⁵¹ They also provide evidence for new local organizing strategies that gain direct negotiations, for example by carrying out clandestine leadership identification and training, followed by rapid recruitment, in-plant agitation, and legal filings.

Now that I have summarized the general debate on how to protect workers' rights, the next section will examine the specifics of Guatemala's garment sector and the country's labor rights context. This review will help us to understand just how surprising the recent Guatemalan labor rights' victories are.

2.2: Why Guatemala?

Guatemala Exemplifies the Globalization of Apparel

The development of the Central American apparel sector, and specifically that of Guatemala, exemplifies the trend of the globalization of the garment industry. Over the past thirty years, garment manufacturing has undergone a massive translocation as traditional northern manufacturers have moved toward outsourcing to independent producers. Changes in fashion markets have led buyers in search of short lead times, short runs, flexible production, and low costs. This quest has led to the expansion of global production and increasing downward pressure on working conditions.⁵²

From 1985 to the present, Central American nations have become significant producers for the international apparel market. In effect, the apparel industry has

⁵⁰ Dr. Armbruster-Sandoval is a Professor of Chicano Studies at University of California, Santa Barbara and has written extensively on cross-border labor solidarity in the Americas.

served as the 'principal export link' between Central America and the international economy. During this period, countries such as Honduras, Dominican Republic, El Salvador, Costa Rica, and Guatemala have jumped to stand among the top twenty-five country sources of apparel for the North American market.⁵³ The total Central American market share of US apparel imports is now approximately twelve percent, with Honduras supplying four percent and Guatemala and El Salvador three percent each.⁵⁴

Today, the Guatemalan apparel sector is composed of more than two-hundred-and-twenty-six apparel factories, thirty-nine textile mills and two-hundred-and-seventy-seven accessories firms generating 141,638 jobs. The apparel and textile industry account for 1.4 percent of Guatemala's labor force. Guatemala's main apparel exports are cotton and manmade fiber trousers and shorts, skirts, coats, baby wear, nightwear, and woven and knitted shirts.⁵⁵

While the maquila sector in many Caribbean countries is dominated by U.S. investors, Guatemala's garment industry is driven by South Korean capital and owners. In fact, seventy percent of investment in the Guatemalan apparel industry comes from South Korean companies.⁵⁶ Pamela Varley of the Investor Responsibility Research Center (IRRC) explains that as South Korean corporations faced increasing domestic wages,

⁵¹ Frundt (1999) and Armbruster-Sandoval (1999).

⁵² Barrientos (2002) and Hale (2002).

⁵³ Mortimore (2002).

⁵⁴ VESTEX (2003b).

⁵⁵ VESTEX (2003a).

⁵⁶ Barrie (2004).

they looked to countries like Guatemala to remain competitive and maintain profit margins.⁵⁷ These investors were especially attracted by tax and tariff incentives offered to foreign investors. As one Korean factory owner in Guatemala commented, "The benefit for Central America is that it is close to the US and can meet short lead time orders better than low labor cost countries like China, Vietnam and Indonesia."⁵⁸ An interview of a Korean garment factory owner in Guatemala City by the IRRC revealed that the company "operated in Korea for more than twenty-five years, but wages and union activity started to rise very quickly during the 1980s. So, we opened our first plant in Guatemala in 1985...The wage rates are much lower and the union less of a threat."⁵⁹

The expansion of Central America's export markets can be traced to the Caribbean Basin Economic Recovery Act (CBERA), enacted by US Congress in August 1983. This program was intended to diversify production and exports from the region by providing tax incentives and trade preferences to investors in non-traditional economic sectors. In the next twenty years, exports to the US from the region increased dramatically. Furthermore, in 1986, President Reagan implemented a "Special Access Program" for textiles and apparel.⁶⁰ In 1990, the passage of the CBERA Expansion Act extended the permanent duty-free treatment that most goods

⁵⁷ Varley (1998).
⁵⁸ Barrie (2004).
⁵⁹ Varley (1998).
⁶⁰ Frundt (1998).

produced in the Caribbean Basin region receive upon entry into the U.S. market. Under the original law, this duty-free eligibility was to expire in September 1995.⁶¹

On May 18, 2000, President Clinton signed into law the United States-Caribbean Trade Partnership Act (CBTPA) as part of the Trade and Development Act of 2000. The CBTPA expands the benefits granted under the Caribbean Basin Initiative (CBI).⁶² Under CBTPA, apparel manufactured from U.S. thread and textiles can enter the United States free of quota and duty. The legislation also requires the President to take account of the beneficiary country's progress in a number of areas, such as workers' rights, intellectual property, and environmental protection.^{63,64}

Guatemala provides the perfect case study for the impacts of the CBI on the Central American garment industry and more generally for the transition that has occurred in the global garment industry in the past twenty years. From 1985 to 1995 Guatemalan shipments to the U.S. increased from \$15 million to \$608 million, as buyers such as Calvin Klein, Liz Claiborne, Perry Ellis, Levi Strauss, Guess, London Fog, Wrangler, and Van Heusen began to source from Guatemala (See Figure 2-2). Apparel became the

⁶¹ US Department of Commerce, International Trade Administration (2004).

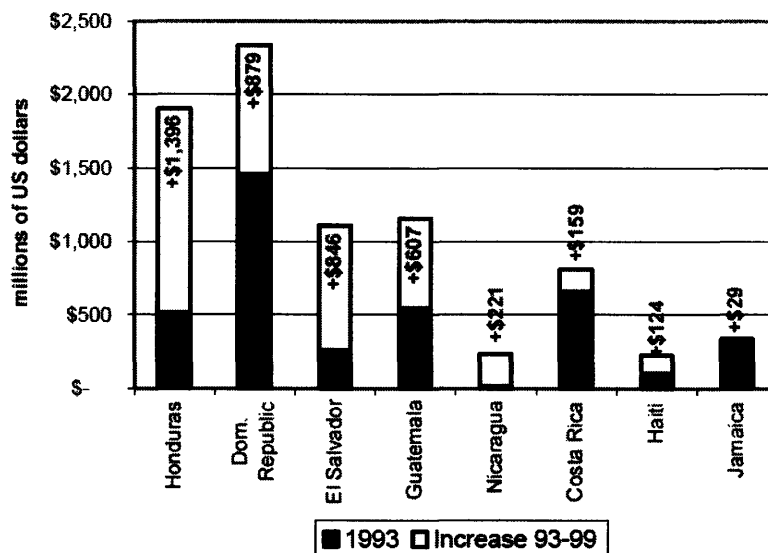
⁶² The Caribbean Basin Initiative, or CBI, is a general term used to refer to the Caribbean Basin Economic Recovery Act of 1983 (CBERA), the Caribbean Basin Economic Recovery Expansion Act of 1990 (CBERA Expansion Act), and the U.S.- Caribbean Basin Trade Partnership Act of 2000 (CBTPA), collectively.

⁶³ US Department of Commerce, International Trade Administration (2004).

⁶⁴ "This locked the Caribbean nations into an assembly role. The product was grown, spun, woven, designed and cut in the USA, shipped to the Caribbean for assembly, then sent back for marketing. US companies found it more convenient to do this in countries close by than to ship the cut fabric to Asia. Hence the Asian producers tend to be providing complete apparel to the US market at the higher end. In other words, geographic proximity reinforces the assembly function of Caribbean countries while the higher costs of transport have forced Asian producers into more integrated manufacture of up-market items." ILO (1999).

third most valuable export after coffee and sugar, and Guatemala is now ranked in 16th position among the twenty-five principal country sources of apparel for the North American market.⁶⁵ In the fifteen year period from 1985 to 2000, Guatemala's market share in North America increased by 2,737 percent and apparel exports as a percentage of Guatemala's exports rose by 2,181 percent.⁶⁶

Figure 2-2: Increase in US Apparel Imports from the Caribbean Basin, 1993-1999⁶⁷



Most recently, beginning in January of 2003, Guatemala joined the US and other Central American countries in the negotiation of the Central American Free Trade Agreement (CAFTA). The United States and Central American countries reached an agreement in January 2004 and are now awaiting approval of the pact by US Congress.

⁶⁵ Frundt (1999).

⁶⁶ Mortimore (2002).

⁶⁷ Figure 3.1 reproduced from Maquila Solidarity Network (2000). Original Source: United States International Trade Commission.

According to the US Trade Representative, CAFTA phases out tariffs and trade barriers through a cutting-edge pact which is designed to promote economic growth and expand U.S. opportunities in the important Central American regional market.⁶⁸ In the words of a Korean investor in Guatemala,

The main factor favoring CAFTA is that it would extend duty-free benefits to fabrics and yarns made in Central American countries (Guatemala, Honduras, Costa Rica, Nicaragua, El Salvador and the Dominican Republic), the NAFTA region (Mexico, Canada and Chile) - and in some cases Asia as well.⁶⁹

Guatemala continues to be at the center of the global garment industry and is central to the United States' economic strategy in the face of increasing global competition. In brief, Guatemala is representative of those developing countries that have joined the global apparel trade in the last twenty to thirty years by providing international investors in an increasingly competitive sector with tax breaks, lower wages, less labor enforcement, faster turn-around times, and proximity to a huge consumer market.

Violations of Labor Rights Are Widespread and Well Documented

Over the past decades, the widespread violation of workers' rights in Guatemala's apparel industry has been documented time and time again in the international news. For example, the six-year struggle by the Phillips-Van Heusen (PVH) union in Guatemala City to gain recognition by management and the Ministry of Labor resulted in several public reports on the state of labor rights in the country. Most notably, a Human Rights Watch investigation uncovered that both PVH management and the

⁶⁸ USTR (2003).

⁶⁹ Barrie (2004).

Guatemalan government had violated the PVH workers' rights. As a result, PVH CEO Bruce Klastky was forced to admit that the Guatemalan government has abrogated its responsibilities for enforcing workers' rights.⁷⁰

In April 1997 UNITE⁷¹ researcher and Guatemalan sociology student Thelma Sanchez investigated the conduct of three factories in Guatemala that sourced to Alfred Angelo. Her report documented that the maquila factories were in violation of many of Guatemala's basic labor laws.⁷² Furthermore, the UN Verification Mission in Guatemala (MINUGUA) reported that from 1994 to 2002, there were twenty-one complaints brought against Guatemala before the ILO for violations of union rights.⁷³

The Guatemalan independent monitoring group, Commission for the Verification of Corporate Codes of Conduct (COVERCO), summarizes that state of labor rights in Guatemala:

In today's global economy, workers in low-wage, labor-intensive export industries...often work under substandard labor conditions. Regulation and enforcement of labor laws is often weak or nonexistent in these sectors... Guatemala's export sectors are no exception...The increasing need for employment combined with a pervasive culture of fear and lawlessness, creates a difficult but necessary climate in which to promote respect for workers' rights in Guatemala's growing export industries. Some employers openly harass and threaten workers who advocate for their basic legal rights through intimidation, bribery and physical abuse. Union leaders and vocal workers are routinely harassed and fired. Child labor, irregular compensation of workers, and health and safety violations are commonplace.⁷⁴

⁷⁰ Varley (1998).

⁷¹ UNITE is the Union of Needletrades, Textiles, and Industrial Employees.

⁷² Varley (1998).

⁷³ MINUGUA (2003): 45.

⁷⁴ COVERCO (2004).

Guatemala's Government Is Representatively Absent in Enforcing Labor Law

Guatemala is a country that is currently rebuilding its government after thirty-six years of civil war. Within recent memory, the Guatemalan military was able to assassinate union organizers with impunity. Throughout this period, the Ministry of Labor has been an under-funded, under-motivated agency that accepts bribes, carries out few inspections of labor violations, and drags its feet in approving union applications. Furthermore, the country's judicial system is severely overburdened and therefore routinely ignores the complaints of workers and petitions of unions. In sum, "the Guatemalan government, like many developing nations' governments, was very much influenced by the local business community and really had abrogated its responsibilities."⁷⁵ This lack of enforcement represents the worst case scenario of a government that is unable or unwilling to enforce labor laws and protect labor rights.

For the length of Guatemala's thirty-six year civil war, a series of military and civilian governments perpetrated shocking human rights abuses against the Guatemalan populous, with particularly brutal treatment of indigenous populations and trade unionists. In fact, anti-union sentiments and actions were at the heart of the ongoing, brutally violent civil struggle. Unions were, in effect, outlawed and workers' attempts to unionize were met with everything from mass firings to executions. Throughout the 1980s and into the 1990s, paramilitary forces responded to labor

⁷⁵ Bruce Klatsky, CEO of PVH in Varley (1998).

organizing with kidnappings and death threats, and unionists were forced underground.⁷⁶

Beginning in 1986 and lasting through 1997, human rights groups and unions filed petitions of Guatemala's US trade benefits under the General System of Preferences (GSP). The complaints that comprised these petitions were numerous, but focused most intensely on (1) violations of freedom of association through physical abuses, military action, and labor code restrictions; (2) child-labor; and (3) poor working conditions including wages, health, and safety.⁷⁷ Specific complaints about the structure and functioning of the Guatemalan labor system's key institutions arose repeatedly during this period. The Ministry of Labor was slow to respond to union applications, provided few inspections of filed violations, and referred most cases to the over-burdened labor courts. The few courts were overtaxed by a backlog of thousands of cases, each of which had to proceed through a series of complex bureaucratic procedures.⁷⁸

The GSP complaints were ignored by the US Trade Representative (USTR) until 1992. When Guatemala realized that the USTR might accept the 1992 petition to revoke trade benefits, the Ministry of Labor reacted. In November 1992, Guatemala's Congress approved a new labor code which simplified union registrations, increased fines, and strengthened court procedures.

⁷⁶ Frundt (1999).

⁷⁷ Frundt (1998): 143.

⁷⁸ Ibid.

In spite of these reforms, violations of labor rights continued throughout the 1990s with twenty-one official complaints filed before the ILO from 1994 to 2000.⁷⁹ As Ricardo Changala, former labor attaché for the UN Verification Mission for Guatemala, explained:

There are neither magic solutions nor shortcuts. You could say: "Well, what we have to do is improve labor courts." Perfect. Let's create twenty more courts. Great. But where are the judges? Are they going to come down from a flying saucer? Are they going to come from the international community? Are we going to have a Norwegian judge hold court in Guatemala? In this country there are no schools for training labor judges—there are none—let's get this clear. And they cannot exist because there is no academia...it was all destroyed during the war. We are 30 or 40 years behind...so things cannot change over night.⁸⁰

In 1996, under the supervision of the United Nations, Guatemala signed eleven peace accords, officially bringing the civil war to an end. A subsection of the Accord on Socioeconomic Aspects and the Agrarian Situation addresses labor relations in an attempt to acknowledge the historically conflictive nature of Guatemala's economic relations. The accords emphasize not only the need to increase incomes of workers, but also stress the importance of promoting a culture of negotiation in the economic arena. This focus on negotiation will allow the Ministry of Labor to resolve disputes and facilitate actions that will benefit all parties involved.⁸¹ Specifically, the labor compact commits the government to strengthening existing labor laws and facilitating the legal recognition of new unions.⁸²

⁷⁹ MINUGUA (2003).

⁸⁰ Quoted in Rodriguez (2003): 60.

⁸¹ MINUGUA (2000): 302.

⁸² Jonas (2000): 157.

According to MINUGUA, there was an initial flurry of action surrounding compliance with the labor compact.⁸³ In May 1996, the Ministry of Labor shortened the process and the legislated Ministry turn-around time for unions to obtain legal status; the Ministry also initiated a program to walk unionists through the application process.⁸⁴ And in 1997, the US removed Guatemala from five-year probationary status under GSP review. The USTR stated that Guatemala had made significant progress in improving respect for workers' rights, specifically by reforming violation response procedures, simplifying procedures for union registration, and doubling the number of labor inspectors.⁸⁵

However, this response to the Peace Accords was short-lived, again according to MINUGUA. In effect,

from the viewpoint of Guatemalan workers and GSP petitions, very little had changed beyond the reduction in overt physical violence. Labor groups experienced persistent delays in union registrations, inadequate labor inspections, and very limited bargaining. Virtually no employers had been cited for violations. The courts hardly operated.⁸⁶

The PVH union's six year struggle with management and government exemplifies the continued troubles. According to Human Rights Watch, which investigated the case, the Ministry of Labor should have intervened in the conflict between PVH management and the union, but instead "abdicate[d] its responsibilities and invite[d] the union and PVH to take their concerns to the labor courts." USGLEP equated this

⁸³ MINUGUA, (2003).

⁸⁴ Varley (1998).

⁸⁵ Ibid.

⁸⁶ Frundt (1998): 163

action with 'burying the dispute.'⁸⁷ Although the union eventually emerged with a collective bargaining agreement in 1997, in December 1998 the factory was abruptly closed and PVH transferred production to other regional non-union factories.⁸⁸

In 2000, MINUGUA issued a summary verification report on compliance with the labor accords. This report stated that MINUGUA's verification of the labor pacts had "demonstrated the persistence of an enormous imbalance between the quantitative and qualitative severity of the country's labor problems and the human and material resources that are dedicated by the state to resolve these problems."⁸⁹ Specifically, MINUGUA documented a persistent lack of institutional unity in the Labor Ministry, slowness and lack of efficiency of the judicial system, and grave violations to the fundamental human rights of union activists.⁹⁰

In 2001, in response to the reports from the ILO and MINUGUA, pressure from the US Embassy, and the renewed threat of GSP withdrawal, the Guatemalan Congress undertook another round of labor reforms.⁹¹ The 2001 reforms most notably gave the labor inspectorate the authority to immediately levy fines on factories that are violating laws, rather than sending the cases to the labor courts. This reform was also noted for giving more power and autonomy to labor inspectors.⁹²

⁸⁷ Varley (1998).

⁸⁸ US/LEAP (2003).

⁸⁹ MINUGUA (2000): 302.

⁹⁰ Ibid: 302.

⁹¹ Personal Communication with Ricardo Changala, former MINUGUA labor inspector. March 19, 2004.

⁹² Personal Communication with Cesar Gatica, Labor Inspector. March 25, 2004. Personal Communication with General Inspector Celeste Ayala. March 24, 2004. Personal Communication with Enrique Torres, legal council for FESTRAS. February 2, 2004.

Credible and Respected Independent Monitoring Exists in Guatemala

The independent monitoring group, Commission for the Verification of Corporate Codes of Conduct (COVERCO) was formed by a group of professionals and leaders in Guatemalan civil society in 1997 as a pioneering effort in the independent monitoring of working conditions in Guatemala's garment factories and agricultural export industries. Per its own mission statement,

COVERCO provides independent monitoring and verification that meets rigorous standards of accuracy, transparency, and non-partisanship. As a not-for-profit, non-governmental organization with a multidisciplinary approach, we can provide authoritative and trusted monitoring that can give customers the confidence that they demand.⁹³

In 1999, Liz Claiborne signed a cutting edge agreement with COVERCO to launch a pilot project to verify working conditions in two of its Guatemalan supplier factories located outside Guatemala City, the Korean-owned, sister factories of Choishin and Cimatextiles.⁹⁴ Through this project, Liz Claiborne became the first apparel retailer in the world to voluntarily implement large-scale independent monitoring in its supplier factories. LCI worked with the International Labor Rights Fund (ILRF), Business for Social Responsibility, UNITE, and other groups to identify potential monitors in Guatemala.⁹⁵

COVERCO has earned respect throughout Guatemala and the world as an independent verification team that clearly respects the rights of workers and unions. It has been

⁹³ COVERCO (1999).

⁹⁴ These conversations between LCI and COVERCO regarding the pilot project started in a very particular historical moment. In Guatemala, following the signing of the Peace Accords in 1996 there was a strong focus on working conditions and labor justice. Internationally, the White House had just developed the FLA (from the Apparel Industry Partnership). Personal Communication with Homero Fuentes & Dennis Smith, Coordinator and Director of COVERCO. January 8, 2004.

described as one of the few organizations in the world that has learned to balance the requirements that allow for truly independent monitoring that is respected by all sides of the debate.⁹⁶ As such, its presence in Guatemala provides an interesting context in which to examine the interaction between workers, unions, MNCs, local management, and independent monitors.

The following chapter will show these interactions through a detailed explanation of the three cases. The case descriptions will confirm the surprising nature of these victories given the aforementioned Guatemalan economic and institutional context.

⁹⁵ COVERCO (1999) and Varley (1998).

⁹⁶ Personal communications with Laura Podolsky and Mary Bellman, organizers for STITCH and US/LEAP. Personal communications with US/LEAP organizer. All in January 2004.

CHAPTER 3: THE CASE STUDIES

The following chapter will provide the details of the Choishin, Cimatextiles, and Nobland cases and then of each case. The description of the case studies in this chapter will allow the reader to understand how a union formed in each factory, how each union achieved a collective bargaining agreement, how independent monitoring was carried out at each factory, and how the Guatemalan government participated in each case. This section will allow the reader to understand the similarities and differences across the cases. These details will then be used as a basis in later chapters to explore the descriptive value of existing bodies of literature and to propose a synthesized model for protecting workers' rights in the developing world.

Through my interviews and investigation, I uncovered the following history of the formation of three unions and the negotiation of three collective bargaining agreements in Guatemala's export garment factories. Section 3.2 will explain the four year history of the Choishin and Cimatextiles factories. Section 3.3 will describe the six month union organizing effort at Nobland and Section 3.4 will bring us up to date on labor conditions in Guatemala.

3.1: Choishin and Cimatextiles (Choi/Cima)

The Factories

The sister factories of Industrial Textiles Choishin SA and Cimatextiles SA are located approximately thirty kilometers outside of Guatemala City in the town of Villa Nueva. The two factories are Korean owned and produce higher-end women's knit garments

for Liz Claiborne and Talbot's. The first factory, Choishin, opened in Guatemala in 1989. Having anticipated that the factory's tax exemptions would expire in 1999, the Korean company opened the second factory, Cimatextiles, within the same compound in 1998.

As of January 2004, the two factories employed a total of approximately four hundred workers on eighteen production lines. The total capacity of the two factories is 900 pieces a day from each line, or an average total of 384,000 dozen pieces a month. Approximately seventy percent of this production capacity is used to produce garments for Liz Claiborne. LCI has been working with Choi/Cima since 1992.⁹⁷

Union Organizing

In 1999, the AFL-CIO Labor Solidarity Center; the International Textile, Garment & Leather Workers Federation; and the Guatemalan union federation FESTRAS began a joint investigation of working conditions at the Choishin and Cimatextiles factories.⁹⁸ This investigation uncovered worker dissatisfaction and violations of workers' rights. The international organizations perceived that this factory seemed ideal for organizing because Liz Claiborne was such a vulnerable buyer; LCI had invested considerable time and resources in protecting its reputation through its work with the Apparel Industry Partnership (AIP), the FLA, and independent monitoring organizations.⁹⁹

⁹⁷ Personal Communication with Alberto Choi, Administrative Manager of Choishin and Cimatextiles. January 23, 2004.

⁹⁸ Personal Communication with David Morales, Director of FESTRAS. January 14, 2004.

The aforementioned alliance began organizing the factories in 2000 with the additional support of STITCH¹⁰⁰ and the US Labor Education in the Americas Project (US/LEAP). I spoke with representatives of these organizations and with the union members themselves to understand the one-year process of clandestine organizing.¹⁰¹ During this time, external organizers (former garment workers and young idealistic Guatemalans) employed by the ITGLWF and FESTRAS assisted the unions in recruiting twenty-five percent of the factory workers, the percentage required by law to force contract negotiation.¹⁰² The union members would propose candidates to approach and the organizers would conduct one-to-one house recruiting visits.¹⁰³ Laura Podolsky explained that STITCH organizers like herself “helped out with house visits and accompanied organizers at their request. I don’t know if you’ve been out to Villa Nueva, but the organizers didn’t really feel safe walking around there at night by themselves. It’s a rough area.”¹⁰⁴

By July 9, 2001, the SITRACHOI and SITRACIMA unions had reached the twenty-five percent threshold and went public by applying for official state recognition from the Ministry of Labor. They submitted their incorporation papers, bylaws, and registration request to the General Directorate of Labor. Members of the new unions appeared before the 5th Labor Court on the same day and requested that the court

⁹⁹ Personal Communication with USLEAP organizer. January 14, 2004.

¹⁰⁰ STITCH is a network of US women unionists, organizers, and activists that seeks to build connections between Central American and US women organizing for economic justice.

¹⁰¹ Personal Communication with Laura Podolsky, organizer for STITCH. January 12, 2004. Personal Communication with US/LEAP organizer. January 14, 2004.

¹⁰² Guatemalan Labor Code (Decree 14-41) Article 51.

¹⁰³ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004. Personal Communication with Laura Podolsky, organizer for STITCH. January 12, 2004.

¹⁰⁴ Personal Communication. January 12, 2004.

declare 'employment immobility.' This *emplazamiento* was approved the same day and the unions were officially recognized by the Ministry of Labor on July 24, 2001.¹⁰⁵ In an interview, the General Director of the Ministry of Labor, Luis Cedeño Merel, confirmed that his office received the unions' applications, that they were completely in order, and that they were processed within the time frame required by law.¹⁰⁶

In response to the formation of the unions, the Choi/Cima factory management began an intense campaign of harassment and intimidation of the union supporters. This campaign soon escalated into mob attacks reportedly orchestrated by company supervisors.¹⁰⁷ Two workers I spoke with described how, for example, they were fired on July 24 just for being members of the SITRACIMA union.¹⁰⁸

Independent Monitoring

At the time of the anti-union response, Liz Claiborne was able to call on the independent monitoring group, COVERCO, to verify the reports that the company was receiving on violence and anti-worker actions in the factories. LCI had signed an agreement with COVERCO in 1999 to verify working conditions at the Choishin and Cimatextiles factories and this monitoring relationship continued through 2003.¹⁰⁹

In 1999, at the start of the project, LCI had negotiated with the Choi/Cima factory management to assure that COVERCO would have unrestricted access to the factories,

¹⁰⁵ The details of the application process were verified by COVERCO and published in their Third Public Report (2001).

¹⁰⁶ Personal Communication. March 23, 2004.

¹⁰⁷ Also confirmed by COVERCO (2001).

¹⁰⁸ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004.

management, workers, and payroll and personnel files.¹¹⁰ COVERCO's role was to record cases of non-compliance with LCI's Standards of Engagement, international labor codes, and national labor regulations. COVERCO agreed to provide LCI with regular updates on the factory situation and to present periodic public reports summarizing the findings. LCI committed to "maintain fluid communications with COVERCO and with management of the local factory, and to take appropriate measures to ensure compliance with their Standards."¹¹¹

COVERCO conducted eighty nine visits in the first year. The methodology for communicating with the workers included off-site meetings, telephone calls and worker visits to the COVERCO office, conversations with COVERCO's onsite monitors, and an onsite padlocked comment box.¹¹² COVERCO describes its role as "making a film of the factory rather than taking a snapshot," i.e. documenting the patterns of management-worker relations in general rather than at any specific moment. For example, COVERCO's monitors verify not just if the factory has bathrooms, but more importantly whether the workers are allowed to use them.¹¹³

COVERCO published two reports (1999 and 2000) that documented the general violations of standards and laws in the two factories. The major complaints from workers and violations recorded by COVERCO included verbal abuse, forced overtime,

¹⁰⁹ COVERCO (1999) and Varley (1998).

¹¹⁰ Personal Communication with Homero Fuentes & Dennis Smith, Coordinator and Director of COVERCO. January 8, 2004.

¹¹¹ The terms of the pilot project agreement are explained in COVERCO's First Public Report (1999).

¹¹² Personal Communication with Homero Fuentes & Dennis Smith, Coordinator and Director of COVERCO. January 8, 2004.

problems with wages and production bonuses, refused permission for medical leave, locked doors, and substandard bathrooms. The most shocking case was when a female worker lost her baby when she miscarried on the factory floor after her Korean supervisor refused her permission to leave and see a doctor.¹¹⁴

At the time of the anti-union response, COVERCO was visiting the factory less frequently, but was quickly asked by LCI to return and verify the situation. In August 2001, COVERCO published a third special report on the conflict that ensued around the formation of the union. This report verified that the workers' rights had been violated when the factory management orchestrated retaliation and physical attacks against union members. Specifically, the report confirmed that: (1) on July 10 "managers began to mobilize supervisors in an effort to discourage union affiliation among workers. Managers suggested that union affiliation would lead to the closing of the factories. Managers also suggested that the presence of a union would hurt workers financially;" (2) on July 18 "anti-union workers and supervisors form[ed] unruly groups that approach[ed] individual union members, demanding that they resign from the factory and the union....Violent demonstrations erupt[ed] in the factories, targeting union workers;" and (3) on July 19, "several union workers and one COVERCO monitor [we]re roughed up....Senior factory managers continue[d] to insist that they are unable to control anti-union workers." COVERCO's visits to the factories had confirmed that the Choi/Cima management had violated the rights of unionized workers according to Guatemalan labor law and international labor code.

¹¹³ Ibid.

Pressure on the MNC

At the time of this conflict, the unions used their network of international solidarity groups to put pressure on Liz Claiborne to maintain production in the Guatemala factories. Through action alerts, letter-writing campaigns, and demonstrations, groups like US/LEAP and the Workers' Rights Consortium mobilized their consumer and student supporters to demand that LCI 'do the right thing.'¹¹⁵ As Mary Mejia, Guatemalan organizer with FESTRAS and the AFL-CIO Solidarity Center explained, "If a worker filed the complaint directly, the brand never would have received it. But if an external group like consumers submit it, that has more impact. Consumers have a lot of power to pressure a company on labor rights."¹¹⁶

Because of reports from COVERCO and pressure from international NGOs and consumers, LCI intervened at Choi/Cima. The company sent a letter directly to the workers on July 25 stating that Liz Claiborne supports the right of workers to choose to join or to not join a union, and that Liz Claiborne would continue business at both factories as long as this right is respected, the quality of the production remains satisfactory, and the current situation has been resolved in a peaceful manner.¹¹⁷

The Goal: A Collective Bargaining Agreement

Once the union went public and had gained recognition from Liz Claiborne, it began to pursue its goal of collective negotiations. However, it continued to face resistance

¹¹⁴ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004. Verified by COVERCO in its First Public Report (1999).

¹¹⁵ Personal Communication with Laura Podolsky, organizer for STITCH. January 12, 2004. Personal Communication with US/LEAP organizer. January 14, 2004.

¹¹⁶ Personal Communication, February 2, 2004.

from company management throughout this period. The unions faced continued refusals to negotiate from management because the unions had not attained the twenty-five percent level of union membership required by Guatemalan law to force collective bargaining negotiations. As Pinciri Fernando, the country representative for Liz Claiborne explains

the factory management said that the law required twenty-five percent of the workers...What they expressed is that if it is only ten to twenty people, it is unfair to accept the union if the other people don't agree and if the country laws don't comply. So they decided not to accept that way.¹¹⁸

However, from the unions' perspective, they could not disclose the true membership of the unions for fear of physical reprisal and firings. As Laura Podolsky, a organizer for STITCH, explains, the continuing campaign

had a really hard time generating membership and recruiting people, and other workers continued to get harassed and threatened despite the high level of publicity surrounding the case...Everyone was scared and no one wanted to join the union. They kind of lost their advantage.¹¹⁹

In addition to the physical violence, the management had sent the message to the workforce that the factories were going to close because of the unions, creating fear and resentment among co-workers. The unions' leaders explained to me that the long-term result was that coworkers would not make their union affiliation public and that friends would shun them for fear of being fired.¹²⁰

The union and its supporters called on the Guatemalan Labor Ministry to intervene in the case through a series of complaints and petitions. Throughout this period, the

¹¹⁷ COVERCO (2001).

¹¹⁸ Personal Communication, January 13, 2004.

¹¹⁹ Personal Communication, January 12, 2004.

unions filed complaints against management's violations of labor regulations and against the corrupt government labor inspectors to the Ministry of Labor. Labor Inspector Cesar Gatica confirmed that between July 2001 and April 2002 there were over 200 complaints filed by the SITRACHOI and SITRACIMA unions with the Ministry of Labor.¹²¹

On July 25, 2001, the Guatemalan Ministry of Labor called a meeting between the management and the unions to discuss the situation. On August 9, the management signed an agreement with the unions in which the company promised to respect workers' rights, reinstate workers who were forced to resign, and punish those responsible for the violence.¹²² However, according to the unions, compliance with this agreement was minimal and harassment of union members continued.

Eventually, the continuing complaints filed by the unions against the labor inspectors motivated the Guatemalan government to act again.¹²³ On April 11, 2002, the Minister of Labor Victor Moirera decreed that a permanent labor inspector be assigned to the Choishin & Cimatextiles factories until the cases were resolved. The decree gave this Inspector the right to call meetings between all the actors in the case and to review and resolve all pending problems. If the complaints could not be resolved

¹²⁰ Personal Communication with the SITRACIMA and SITRACHOI unions, January 15, 2004.

¹²¹ Personal Communication, January 30, 2004.

¹²² COVERCO (2001).

¹²³ Personal Communication with Cesar Gatica, Labor Inspector. January 30, 2004.

through negotiation, then the inspector had the authority to assess a fine on the factory.¹²⁴

When Inspector Cesar Gatica took on the permanent position, the situation was very contentious and none of the parties would cede any ground. Because the goal was the negotiation and signing of a collective bargaining agreement, Inspector Gatica had been selected based on his experience with mediation techniques.¹²⁵

Thus began the protracted process of negotiation between management and the union. Inspector Gatica mediated bimonthly meetings between the factory management and the union from April 2002 until July 2003. Although the meetings were at times tedious and seemed to make little progress, they continued in order to maintain the dialogue between all the parties. As Gatica makes clear,

There was an environment of non-tolerance because of the previous violence. The goal in this context was to get the parties to resolve the problem through direct negotiation....These meetings were not about coercive power, but rather were about not allowing the conversation to break down. Although the meetings were tedious, they were important.¹²⁶

However, the tedium and lack of forward movement did take its toll on the unions and on the organizing team. STITCH organizer Podolsky explains that she witnessed considerable tension and conflict among the unions' leadership teams during this period:

When it continues to be stressful and there's no solid forward movement, members start to fight among themselves. A lack of

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

concrete forward movement was coupled with confusion between the different groups that were supporting the project about who was running the project. There were also conflicts between the organizers in FESTRAS—different notions of organizing, strategies, relationships with workers. And conflicts between different external groups—in terms of setting an agenda, i.e. different strategies and different philosophies.¹²⁷

So it was during this period that the unions broke off their relationship with the international solidarity groups and with FESTRAS.¹²⁸

Nonetheless, from late 2001 to mid-2003, the efforts to protect the workers' rights continued on both the international and local levels. The international advocacy campaign continued through coordination with US students, unions, consumers, and religious organizations to pressure Liz Claiborne.¹²⁹ Homero Fuentes told me that, at this time, COVERCO also assisted the unions in filing an official complaint against the factories with the Fair Labor Association.¹³⁰ And David Morales, Director of FESTRAS, verified that coordination with Korean, Japanese, and Taiwanese unions and social movements also pressured the Korean president of Choi/Cima to focus on improving labor rights.¹³¹

According to Labor Inspector Cesar Gatica, during this time, international pressure was also mounting on the Guatemalan government due to a series of coordinated events and actions. First, in December 2002, the AFL-CIO submitted a petition before

¹²⁷ Personal Communication, January 12, 2004.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Personal Communication. January 27, 2004.

¹³¹ Personal Communication with David Morales, Director of FESTRAS. January 14, 2004.

the US Trade Representative requesting that Guatemala's General System of Preferences status be revoked due to continuing labor rights violations, particularly in the Choishin & Cimatextiles cases.¹³²

Then, in April 2003, US Congressman Sander Levin (D-Michigan) visited Guatemala as part of a Central American tour focusing on concern over labor violations in the context of Central American Free Trade Agreement (CAFTA) negotiations. His report-back to Congress documented labor rights violations in Guatemala and increased pressure on Guatemala to resolve the high-profile Choi/Cima case and improve labor rights in order to accede to CAFTA.¹³³

When Guatemalan Minister of Labor Victor Moirera went to the International Labor Organization meeting in Geneva, Switzerland in June 2003 he was faced with considerable pressure on the Guatemalan government, most strikingly in the form of an international complaint against the country.¹³⁴ After a June 12 meeting in Geneva with Neil Kearney, president of the ITGLWF, Minister Moreira returned to Guatemala and relayed his demands to Inspector Gatica that the case be immediately resolved by the Labor Inspectorate.¹³⁵ To show the government's determination to resolve the case and improve its international image, the Ministry of Economy threatened to take

¹³² Pasquarella (2003).

¹³³ Levin (2003).

¹³⁴ Personal Communication with Cesar Gatica, Labor Inspector. January 30, 2004.

¹³⁵ Ibid.

away the Choi/Cima factories' export license unless collective bargaining agreements were negotiated quickly.¹³⁶

In response, the Choi/Cima management agreed to negotiate the agreements at a June 26 meeting and the collective bargaining agreements were finalized on July 14, 2003.^{137,138} The collective bargaining agreements granted workers wage increases, childcare, a health clinic, and changes in human resources personnel among other things.¹³⁹ Throughout the negotiation process, the unions were supported by their international allies; specifically, Neil Kearney was present at their side throughout the negotiations of the contract.¹⁴⁰

The Ministry of Labor required that the factories be monitored for three months by Inspector Gatica to confirm compliance with the collective bargaining agreement.¹⁴¹ The Fair Labor Association also asked COVERCO to monitor the factory.¹⁴² In January 2004, Inspector Gatica issued a report certifying that Choishin and Cimatextiles had complied with all requirements to date.¹⁴³ However, according to conversations with COVERCO and the SITRACHOI and SITRACIMA union members, the management has addressed many issues on the surface, but has not achieved true compliance. For

¹³⁶ Maza (2003).

¹³⁷ These dates were confirmed through an examination of the government file for Choishin and Cimatextiles case.

¹³⁸ The manager of Choi/Cima Alberto Choi refused to comment on what factors influenced the company to make this decision in the end.

¹³⁹ Collective Bargaining Agreement, July 14 2003.

¹⁴⁰ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004.

¹⁴¹ This period was later extended to six months. Personal Communication with Cesar Gatica, Labor Inspector. January 30, 2004.

¹⁴² Personal Communication with Homero Fuentes, Coordinator of COVERCO. January 27, 2004.

¹⁴³ Attained as part of the Ministry of Labor's public record of the case.

example, management has provided childcare and Christmas parties, but continues to pressure workers to work long hours. The workers also report that they are 'allowed' to leave at 4:30pm (the end of the legal workday), but management is taking away the group of buses that take workers home at 4:30pm, in essence requiring them to work overtime and leave on the 6pm bus.¹⁴⁴

According to some organizers, the result of the campaign and negotiation is a weak union with a collective bargaining agreement.¹⁴⁵ The unions' leadership expressed to me their continued fear of management reprisal and explained how because of this fear they will not release the names of the unions' members to management; therefore, they still do not technically have twenty-five percent of the workforce as members.¹⁴⁶ Furthermore, recent communications from the unions have described continued verbal and physical abuse of workers by management, firings of union members, and daily announcements over the factory loudspeaker that

The company has millionaire losses because they are the only ones to pay a minimum wage that is higher than the established ones, that staff can leave at 16.30 pm, that they have children's care center, medical service and they also emphasize the economical benefits obtained by means of the CBA. According to them all of these make the company to be not competitive. The announcements also express the imminent closing of the factory and state that it is workers' responsibility to rescue the company, concluding to ask the workforce to cooperate with overtime work, while requesting for no justified absenteeism or workers are to be suspended (sic).¹⁴⁷

¹⁴⁴ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004.

¹⁴⁵ Personal Communication with US/LEAP organizer, David Morales (Director of FESTRAS) and Laura Podolsky (organizer for STITCH). January 2004.

¹⁴⁶ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004.

¹⁴⁷ Personal Communication with SITRACIMA and SITRACHOI unions. April 27, 2004.

Because the unions lack leverage, they continue to be intimidated by a management team that is conscious that the workers cannot do much to protest. For example, the union leaders explained to me that workers still have difficulty getting permission to leave the jobsite to go to the National Health Service for medical appointments.¹⁴⁸ This situation is seen by some organizers to be emblematic of a “hollow victory,” i.e. weak local unions that were supported by a strong international movement.¹⁴⁹

3.2: Nobland (NB)

The Factories

Nobland International is a Korean garment manufacturer of knitwear and woven apparel specializing in exports of women’s clothing to the U.S. market. It owns offshore sewing factories in Vietnam and Guatemala and has 30 sub-sewing factories operating in Korea, Saipan, and Indonesia. Its customers include designer brands like Diane Von Furstenburg, Donna Karan New York, Michael Kors, BCBG Max Azria and retail specialty stores like GAP, Old Navy, Banana Republic, Casual Corner, and Victoria’s Secret and department stores such as J.C. Penney, Target, and Mervyn’s. Liz Claiborne is also one of its major customers.¹⁵⁰

The Nobland SA factory in Guatemala City was established in 2000 and produces women’s knitwear for Gap, JCPenney, and Target. It is located in the heart of the

¹⁴⁸ Ibid.

¹⁴⁹ Personal Communication with US/LEAP organizer and Laura Podolsky, organizer for STITCH. January 2004.

¹⁵⁰ Nobland (2004).

city in the lower-class Zone 5. This factory employs approximately four hundred and fifty workers.¹⁵¹

Union Organizing

In February 2003, thirty workers at the Nobland factory joined together to form a clandestine union.¹⁵² These workers, as individuals, had a history of filing complaints against the factory management with the Ministry of Labor and of organizing work stoppages.¹⁵³ These actions were a reaction to the long-term conditions in the factory, where workers reported that Korean and Guatemalan management mistreated them by regularly closing the door early and locking them out of the factory, and by carrying out mass firings every two months in order to later rehire the workforce and avoid social security requirements.¹⁵⁴ In June 2003, Mary Mejia of FESTRAS and the AFL-CIO Solidarity Center learned of the incipient union and began to provide support to these workers. Over the next four months the SITRANB union expanded through leadership development and clandestine recruiting.¹⁵⁵ The union federation, FESTRAS, coordinated the union organizing campaign this time around, with the AFL-CIO, ITGLWF, and US/LEAP playing more ancillary roles.¹⁵⁶

On October 12, the Nobland factory management discovered the existence of the union and immediately fired four union members. But the union was prepared for this

¹⁵¹ Hedgpeth (2003).

¹⁵² Personal Communication with SITRANB union. January 19, 2004.

¹⁵³ Personal Communication with SITRANB union. January 19, 2004. Personal Communication with Mary Mejia, organizer for FESTRAS and the AFL-CIO Solidarity Center. February 2, 2004.

¹⁵⁴ Personal Communication with Mary Mejia. February 2, 2004.

¹⁵⁵ Ibid.

possibility; it had the legal union documents in order and immediately filed them with the Ministry of Labor.¹⁵⁷ The requested *emplazamiento*¹⁵⁸ was granted by the labor courts on October 16. The SITRANB union then met, elected official leadership, and began an intensive membership drive. The first day after the union went public it signed up fifty new members. It continued this strategy until it had attained a membership of one-hundred-and-forty members. In contrast to the SITRACHOI and SITRACIMA unions, the SITRANB union achieved a membership rate of nearly fifty percent of factory workers in a short time.

Unlike in the Choi/Cima case, the Nobland management did not physically attack the organized workers. Rather, as the union leaders described to me, management's reaction was to employ scare tactics and illegal maneuvers to combat the union's influence in the factory. For example, the management arranged daily religious meetings at lunch to tell the workers that God does not approve of unions. When the SITRANB union discovered these tactics, the leaders went to the meetings and defended the role of the union.¹⁵⁹ But this was not the end of management's counterstrategies. In November, the management organized an alternate union committee to replace the original SITRANB executive committee. Of the thirty members of this alternative committee, nine were supervisors and the three leaders of the committee were supervisors. This committee requested that the

¹⁵⁶ Personal Communication with Edgar Torres, legal counsel for FESTRAS and David Morales, Director of FESTRAS. February 2 and 3, 2004.

¹⁵⁷ Information on the union organizing process was attained through Personal Communication with SITRANB union. January 19, 2004.

¹⁵⁸ Employment immobility.

emplazamiento be lifted and changed the mailing address of the union so that they would not receive notification of the changes. The union discovered this trickery approximately ten days later and submitted an appeal to the labor courts.¹⁶⁰

Independent Monitoring

Unlike in the Choi/Cima factories, there was no preexisting independent monitoring program at the Nobland factory. However, Gap, for example, does have a corporate code of conduct that it monitors internally at the Nobland factory. This was confirmed by Mary Bellman of STITCH, who saw a Gap code of conduct poster in the factory, and by the union leaders, who have witnessed Gap monitors in the factory.¹⁶¹

Despite this difference, as we look at the Nobland case, we will see that independent monitoring is still a factor that is comparable across the cases. In the Choi/Cima cases, monitoring was most important in verifying labor rights abuses at the moment when the union formed, and I will show that the same is true at Nobland.

In December 2003, the unions and their international allies had been involved in ongoing conversations with the Nobland management, as well as Gap, JCPenney, and Target, for several months. Through these meetings, the union's supporters reported what they saw as violations of the unions legally recognized rights.¹⁶² In an effort to disprove these allegations, the Korean management of Nobland offered to have

¹⁵⁹ Personal Communication with Mary Mejia, organizer for FESTRAS and the AFL-CIO Solidarity Center. February 2, 2004.

¹⁶⁰ Personal Communication with US/LEAP organizer. January 29, 2004.

¹⁶¹ Personal Communications. January 8, 2004 and January 19, 2004.

¹⁶² Personal Communication with US/LEAP organizer. March 19, 2004.

US/LEAP inspect the Nobland factory, believing that such an inspection would verify that it was the union and not the management that was violating Guatemalan labor law.¹⁶³ US/LEAP declined this offer, because it did not feel like this was its role, but offered a counterproposal.¹⁶⁴ It arranged for an independent monitor, Roberto Changala, who had previously worked on labor rights with MINUGUA, to conduct a short-term independent verification. The factory owner, Keith Kim, agreed to the monitoring plan.¹⁶⁵

Changala's ten-day independent verification assignment began on January 5, 2004. According to the agreement between Nobland, Changala, and US/LEAP, Changala's role in the factory was to verify very specific conditions relating to freedom of association and potential violations to union rights. The company agreed to pay Changala for his work. The ground rules clearly specified that Changala was not a judge, but would give a technical opinion with no option for discussion or appeal from either side. As an independent inspector, he was given access to the workers, supervisors, management, all factory files and paperwork, and the government files on the case.¹⁶⁶

His ten-day investigation verified that the Nobland management had violated the Guatemalan labor law and international labor code by impeding the union and defying

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Personal Communication with Ricardo Changala, independent monitor at Nobland. March 19, 2004.

the workers' freedom of association.¹⁶⁷ His report was presented to the workers and the management and was used as the basis to request contract negotiations.¹⁶⁸

Pressure on the MNC

Throughout this period, the union's international allies, US/LEAP, WRC, and ITGLWF were negotiating with the brands and with the Korean management to gain recognition of the union. These actions were designed to send a message to the brands and the Korean management that this situation could be resolved without major conflict or else it could involve a major student and consumer campaign in the US. In this case, the full-fledge international campaign never became necessary because the brands and Nobland responded quickly to the direct pressures of the union and its allies. For example, because of these coordinated conversations, Korean management agreed to independent monitoring and accepted the results of independent monitor Changala's report.¹⁶⁹

The Goal: A Collective Bargaining Agreement

As in the Choi/Cima case, the goal of the union campaign was the negotiation of a collective bargaining agreement.¹⁷⁰ SITRANB wanted to use conflict only as necessary to arrive at these negotiations. The unions goals for this contract were, among other things, no forced overtime, permission for time off to care for sick children,

¹⁶⁷ Ibid (Changala).

¹⁶⁸ Ibid (US/LEAP).

¹⁶⁹ Details on these interactions were attained through conversations with US/LEAP. March 19, 2004.

¹⁷⁰ Personal Communication with the SITRANB union. January 19, 2004. Personal Communication with Enrique Torres, legal counsel for FESTRAS. February 2, 2004.

permission for medical leave, fair treatment (e.g. to threats, harassment, or sexual harassment), clean bathrooms, and childcare.¹⁷¹

At the request of the SITRANB union, Cesar Gatica was again appointed to resolve the workers' complaints and move along negotiations of the collective bargaining agreement.¹⁷² Gatica explained that there were fifteen complaints filed in December 2003 and January 2004. However, in this case, none of the complaints were filed against the labor inspectors; rather, all were filed against the factory management. As of January 30, 2004, fourteen of those complaints had been resolved.¹⁷³

On January 20, the union submitted the collective bargaining agreement proposal. Because the union had achieved considerably more than twenty-five percent (i.e. nearly fifty percent) worker membership, the management was required by law to respond to this request within thirty days.¹⁷⁴ The parties started negotiating the agreement on February 19, 2004. The Nobland management asked the Ministry of Labor for space to meet for the negotiation and requested that the Labor Inspectorate facilitate the meetings.¹⁷⁵ The contract was achieved in spring 2004 in record time. Because the contract has been so recently finalized, I was not able to investigate its implementation and am, therefore, unable to report on whether the contract has improved the working conditions at the Nobland factory.

¹⁷¹ Ibid (SITRANB).

¹⁷² Personal Communication with David Morales, Director of FESTRAS. February 3, 2004.

¹⁷³ Personal Communication with Cesar Gatica, Labor Inspector. January 30, 2004.

¹⁷⁴ Ibid.

¹⁷⁵ Personal Communication with General Inspector Celeste Ayala. March 24, 2004.

3.3: A Final Development

The final part of this story has to do with the election in January 2004 of the Berger presidential administration after eight years of presidential rule by the corrupt Portillo administration. One of the first actions of the new government was to send the newly appointed Minister of Labor Gallardo Flores to pay an official visit at the Choi/Cima factories to check the status of the collective bargaining agreement and affirm the new administration's commitment to labor rights.¹⁷⁶ Cesar Gatica explains that this demonstrated that

With the new government, there is an opening for dialogue and communication. I have seen it from my perspective in the labor inspectorate where we had the historic accomplishment of negotiating a contract for a maquila that could have created a huge international conflict for the Guatemalan government.¹⁷⁷

Furthermore, the Berger administration is focusing on implementing a decree passed in December 2003 by the previous administration that created a special sweatshop commission within the Labor Inspectorate—the Special Inspectors Unit for Compliance with Labor Laws in the Garment Sector. The overarching goal of the program is to defend the rights of workers while maintaining a source of jobs for Guatemalans.¹⁷⁸ This mandate appointed five inspectors with the most experience in maquila cases and in mediation, conciliation, and negotiation to the commission. Inspector Gatica again explains that Inspectors from the Maquila Commission are in the process of training the other labor inspectors in mediation and negotiation so that cases can be resolved faster and with less conflict.¹⁷⁹

¹⁷⁶ Ibid.

¹⁷⁷ Personal Communication, March 25, 2004.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

CHAPTER 4: RETHINKING OUR MODELS FOR PROTECTING WORKERS' RIGHTS

In examining the cases of Choishin, Cimatextiles, and Nobland in the previous chapter, we saw that the unexpected has occurred in Guatemala's apparel-for-export sector. The bodies of literature relating to improving labor conditions in the developing world that I described in Chapter 2 (i.e. lobby government to enforce labor laws, implement corporate codes of conduct and independent monitoring, and organize cross-border union campaigns) seem individually inadequate to explain the occurrences in Guatemala's apparel-for-export sector. This chapter, therefore, will explain what each of those explanations misses and propose a synthesized model for protecting workers' rights.

Each of the aforementioned schools of thought would explain the successes of the Choishin, Cimatextiles, and Nobland unions according to their own theories. For example, Neil Kearney, President of the ITGLWF, claims that it was the government intervention in the Choishin case that was key: "one action by government in enforcing its labor laws has had much more impact than ten years so-called 'voluntary initiative'. There is surely a lesson to be learned here."¹⁸⁰

On another note, Liz Claiborne and Gap could attribute the achievement of these unions to their commitment to labor rights, enforcement of their corporate code of conduct, and independent monitoring of those standards. Finally, Mary Mejia from

the AFL-CIO Solidarity Center believes that the strength of the international alliances and coordination (i.e. a cross-border organizing campaign) was fundamental to the formation of the unions and negotiation of the contracts.¹⁸¹

However, each of these explanations misses the complexity that led to the success of these cases. In reality it was a dynamic interaction between all of these approaches that allowed the Choishin, Cimatextiles, and Nobland unions to form and negotiate the only collective bargaining agreements in Guatemala's apparel-for-export sector. As Jenny Pasquarella, a human and labor rights advocate who has worked with COVERCO and the Lawyers Committee for Human Rights' Workers' Rights Program, explained,

The Choishin and Cimatextiles case illustrates the diverse influences required to improve conditions for workers producing apparel for a global market. In this case, government action was a catalyst. But the political motives of the government and the actual positive outcome have a lot to do with the international actors and the free trade architecture surrounding the case....

Choishin and Cimatextiles are not a typical maquila success story. They are part of a small percentage of apparel factories in the global economy where the multinational brand supplying from them has implemented a human rights compliance program, an independent external monitor has been brought in to document conditions, and where worker organizing has been supported over the years by international and local unions and NGOs. Without this involvement, Choi Shin and Cimatextiles could easily have faded into the tapestry of closed-door labor rights violators in Guatemala.¹⁸²

The following section (4.1) will explain the limitations of each of the traditional approaches. Then in section 4.2, I will propose a synthesized model for protecting

¹⁸⁰ Kearney (2003).

workers' rights in Guatemala's garment factories. Chapter 5 will then use the case of Choishin to demonstrate the model and Chapter 6 will do the same for Nobland.

4.1: Evaluating the Existing Models

In this section, I will demonstrate why each approach to protecting workers' rights in Guatemala alone is not enough to explain the successes at Choishin, Cimatextiles, and Nobland.

Lobby Government

A brief digression to examine the forest sector can help us understand why traditional efforts to lobby government are no longer effective. The forest sector is quite similar to the apparel industry in that it has turned to environmental certification schemes to fill the traditional government role of regulation and enforcement. In fact, Tim Bartley, Professor of Sociology at Indiana University, has compared the certification systems that have arisen for environmental standards in the forest sector and labor standards in the apparel sector and explains why such remarkably similar systems of non-governmental regulation have emerged.¹⁸³

Since the 1980s, international trade regulations have made it increasingly difficult for national governments to ensure that timber and forest products entering individual nations were sustainably harvested. Bartley describes the watershed case of the early 1990s when the Austrian government attempted to ban the importation of tropical timber that was not sustainably produced. Indonesia and Malaysia, countries that are

¹⁸¹ Personal Communication. February 2, 2004.

highly reliant on tropical timber exports, threatened to challenge the law as a non-tariff barrier under GATT. Under significant pressure, the Austrian government withdrew the law in 1993 and other governments were discouraged from regulating tropical timber imports because they feared a similar challenge under global free trade rules. The bottom line is that lobbying government to enforce environmental and social regulations is no longer sufficient to ensure respect for environmental standards or workers' rights.

Returning to the apparel sector in Guatemala, we can see how this approach alone has not been sufficient. From 1986 to the present, various human rights groups and unions have pressured the Guatemalan government to increase protections of labor rights via petitions of Guatemala's US trade benefits under the General System of Preferences. While the pressure applied to Guatemala by the US government between 1992 and 1995 did bring about a few revisions of the Guatemalan labor code, documented labor violations have continued (see section 2.2).¹⁸⁴

And over the course of the past eighteen years, these pressures have only been significant during very specific political windows. For example, the US government ignored GSP petitions regarding Guatemala from 1986 to 1992 and then, in 1997, removed Guatemala from five-year probationary status under GSP review despite continuing labor violations. And the one window for change only occurred because of the negotiation of an end to Guatemala's civil war. In sum, pressure and lobbying of

¹⁸² Pasquarella (2003).

the Guatemalan government alone has not been demonstrated to increase respect for labor rights.

Corporate Codes of Conduct

As for corporate codes of conduct and independent monitoring, while they don't seem to inherently undermine unions in the way that some critics suggest, they are not enough to ensure workers' rights by themselves. As Stephen Coates, Director of US/LEAP explains, "we must never imply that voluntary private sector codes and monitoring are a substitute for national enforcement of labor laws."¹⁸⁵

Even in Guatemala, where COVERCO has been praised as a highly respected example of truly independent and respectful labor standard verification, independent monitoring of a corporate code of conduct could not stop major violations of workers' basic human rights and their rights under Guatemalan law. For example, despite COVERCO's presence in the Choi/Cima factories, a female worker lost her baby when she miscarried on the factory floor when her Korean supervisor refused her permission to leave and see a doctor.¹⁸⁶

Furthermore, Dwight Justice of the ICFTU explains the organization's platform that "codes should not be a substitute for collective bargaining and, that to be meaningful, codes of labor practice must have the effect of creating space for worker

¹⁸³ Bartley (2003).

¹⁸⁴ Frundt (1999), MINUGUA (2000 and 2003), and Varley (1998).

¹⁸⁵ Coates (1998).

¹⁸⁶ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004. Verified by COVERCO in its First Public Report (1999).

self-organization and collective bargaining.”¹⁸⁷ Codes of conduct promise the bare minimum in terms of labor rights and, therefore, do not address all of the issues that are of concern to workers. As Homero Fuentes of COVERCO explained,

Independent monitoring just verifies minimum compliance with laws or codes. Unions are there to insist that conditions be better than just the minimum. Therefore, the presence of monitors does not replace a union.¹⁸⁸

However, as drafted, few corporate codes of conduct in the garment industry recognize freedom of association or allow unions to collectively bargain.¹⁸⁹

Cross-Border Organizing

Finally, I would like to touch on a few limitations to the cross-border organizing framework. First of all, this approach is very intensive, requiring a lot of time and resources to organize in one factory at a time. As Stephen Coates of US/LEAP explains, “We don’t have the capacity to wage thousands of campaigns and must take on specific corporate campaigns with clear strategic goals in mind.”¹⁹⁰ And the ultimate failure of the Phillips-Van Heusen case in Guatemala (see chapter 1) shows the dangers of a model that requires such intense effort; in that case, after six years of organizing finally brought a union victory, the corporation picked up and moved to Honduras. Second, the model isolates organizing from enforcement of corporate codes of conduct and does not acknowledge that union organizing can occur in locations where corporate codes of conduct are being independently monitored.

¹⁸⁷ Justice (2001).

¹⁸⁸ Personal Communication with Homero Fuentes, Coordinator of COVERCO. January 27, 2004.

¹⁸⁹ Jeffcott and Yanz (1999).

¹⁹⁰ Coates (1998).

Finally, the model is vague about how government is engaged and when/why it reacts.

4.2: A New Model: The Big Squeeze

Esbenshade asserts that the best scenario for protecting workers' rights would be a campaign that coordinated and reinforced the three strategies of combating sweatshops: (1) government enforcement, (2) union organizing, and (3) corporate campaigns.¹⁹¹ Other academics and activists have agreed that a more synthesized approach is required. Jeffcott and Yanz of the Canadian-based NGO Maquila Solidarity Network "believe voluntary codes and monitoring systems can potentially be used to reinforce existing legislation and encourage governments to enforce that legislation."¹⁹² Bama Athreya of the ILRF says that "codes of conduct have the potential to play a critical role in the promotion of free trade unions...provided they contain language protecting workers' rights to associate and form unions and to bargain collectively."¹⁹³ Finally, Lance Compa describes the reality that "given unions' weak presence in the global assembly line and the rapid-response capabilities of many NGOs, codes of conduct are worthwhile. The challenge is to find the right balance."¹⁹⁴

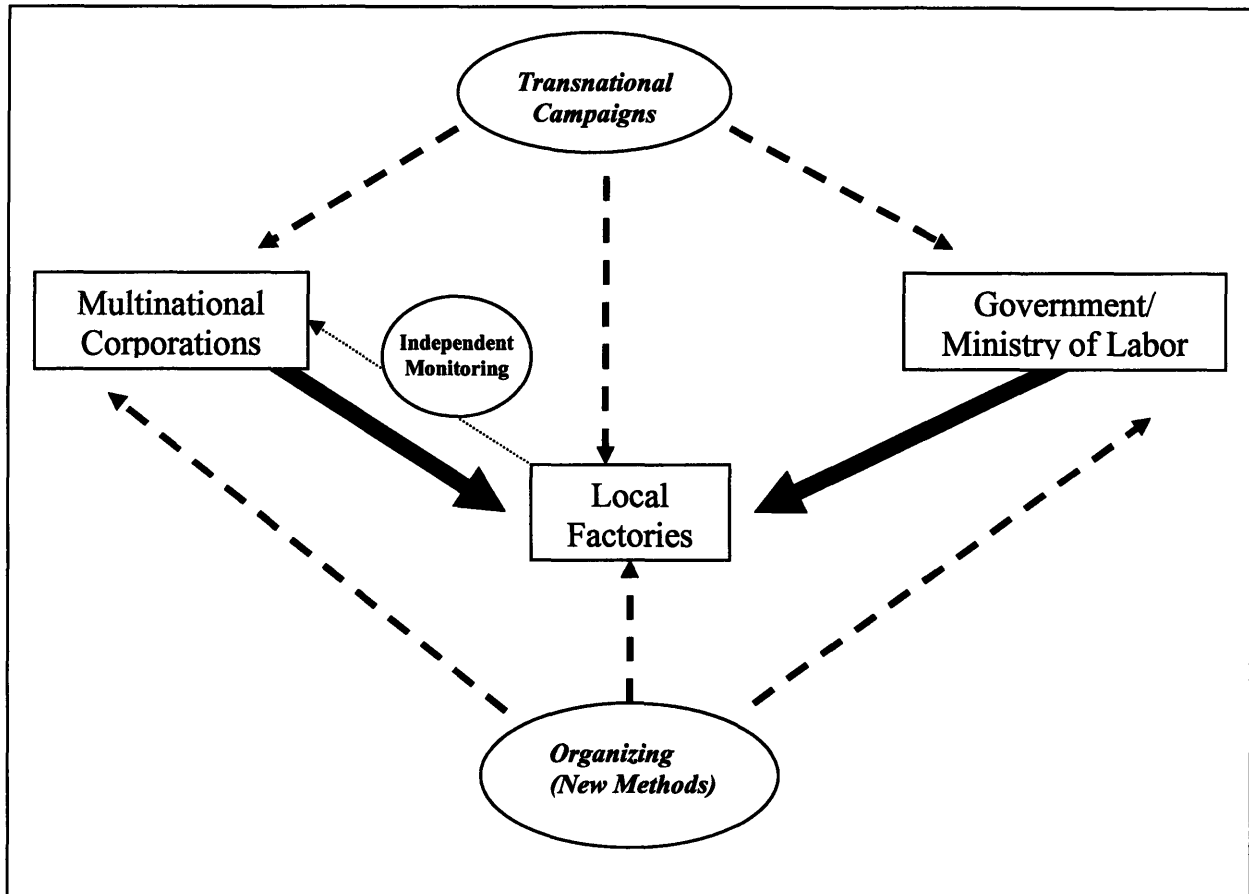
The model for labor organizing that I observed in the Guatemalan apparel-for-export sector seems to demonstrate the importance of this balance, not to mention both the validity and the feasibility of Esbenshade's scenario (see Figure 4-2).

¹⁹¹ Esbenshade (2001).

¹⁹² Jeffcott and Yanz (1999).

¹⁹³ As cited in Jeffcott and Yanz (1999).

Figure 4-2
The Big Squeeze
Model for Protecting Workers' Rights in Apparel-for-Export Factories



Through this synthesized approach, international allies and local organizers concurrently apply pressure to (1) the local factory, (2) the national government and the Ministry of Labor, and (3) the multinational buyer. This approach tries to create both direct and indirect pressure from all directions on the local factory. The goal is to gain respect for freedom of association and collective bargaining without allowing the factory owners or multinational buyers to cut production and move to another country. The multidimensional approach provides an organized local worker presence

¹⁹⁴ Compa (2001).

in the factory, but also focuses local and international pressure through the MNC and government to squeeze the local factory. In fact, it is the international allies' actions that create openings for local workers' unions to pursue collective bargaining.

In this model, corporate codes of conduct are an important source of leverage on the MNCs, and independent monitoring is used to corroborate reports from workers, unions, and their international allies and supply *trustworthy* information to the MNCs. It also acknowledges specific local business conditions that can provide leverage for organizing campaigns.

This model corrects for several inconsistencies and missing aspects of Anner's model,¹⁹⁵ while at the same time combining it with schools of thought on lobbying government and independent monitoring. This revised model gains its dynamism from the fact that it includes the workers as active participants in the protection of their rights; does not rely entirely on corporate codes of conduct and pressure on the local factory from the MNC; does not give up on the possibility that the government can enforce local labor laws; and acknowledges that independent monitoring, unions, and government enforcement can be combined for positive results.

¹⁹⁵ Several aspects of Anner's triangle of power model do not stand up to closer scrutiny; for example, Anner describes three strategies for targeting the three points of the triangle, but while *Transnational Campaigns* and *Organizing (New Methods)* are strategies for targeting the first and second points in the triangle of power, *Better Laws* and *Better Enforcement* are not. Rather than being a means for targeting the government, they are goals of an unnamed strategy. Furthermore, Anner maps *Transnational Campaigns* as targeting only the MNCs; however, they also apply pressure to local factories and government. Similarly, local *Organizing* campaigns do not only pressure the local factory,

In conclusion, we have seen that each approach to improving working conditions is not enough individually to explain how three unions formed and negotiated collective bargaining agreements; to understand how independent monitoring and unions worked together; or to appreciate how the Guatemalan government got involved in the cases. However, the synthesized model proposed above can account for all of those occurrences. The following chapter will use the Choi/Cima cases to demonstrate in detail how each of these surprises can be best explained by this new model.

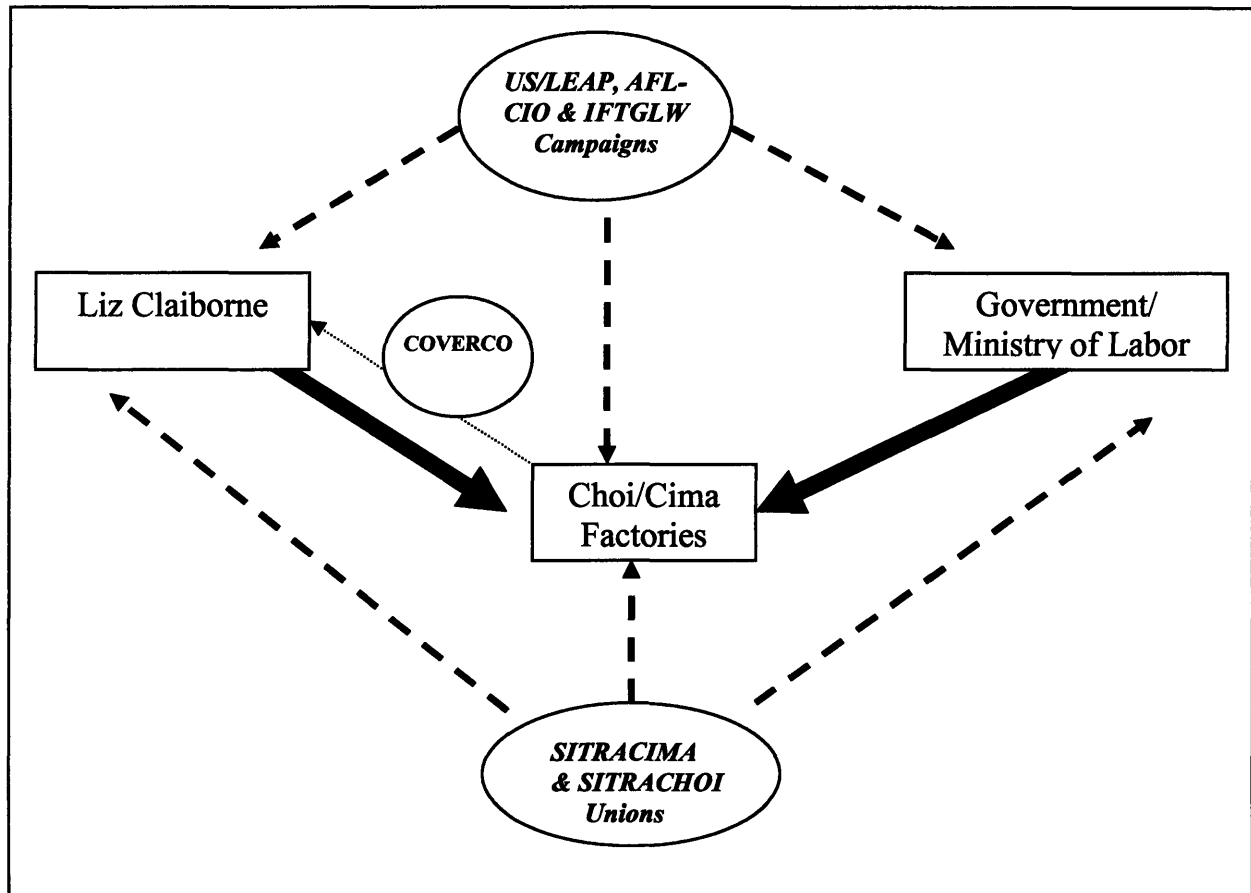
but also engage with the MNC and the government. Finally, the model shows interaction between the MNC and the local government of which there is little.

CHAPTER 5: EXPLAINING THE VICTORY AT CHOI/CIMA

In the previous chapter, I proposed a synthesized model for protecting workers' rights in apparel-for-export factories in the developing world. This chapter will use the Choishin and Cimatextiles factories to demonstrate the descriptive value of this model. I will describe the strategies utilized first by the local organizing campaign and then by the unions' international allies to target the local factory, the government, and the multinational corporation in turn. I will also touch on how the work of the international allies lays the groundwork for the actions of the local union organizers. Finally, I will demonstrate how independent monitors also serve as a key part of the model.

These factors are all significant in explaining how a series of strategies and approaches worked together to create unexpected victories in Guatemala. Each piece of this approach (see Figure 5-1 where I have filled in the details of these particular cases) allowed respect for freedom of association and collective bargaining without allowing the factory owners or multinational buyers to cut production and leave the country. And as a result, there are two unionized sister factories in Villa Nueva that maintained production and jobs for Guatemalans and saw some improvement in working conditions.

Figure 5-1
The Big Squeeze at Choishin and Cimatextiles
Model for Protecting Workers' Rights in Apparel-for-Export Factories



5.1: Local Organizing Campaign

Tactics for Local Factory

The primary building block of this approach to protecting workers' rights is the independent trade union. The workers in a local factory are organized in this structure in order to most effectively target the factory management. By organizing, workers hope to achieve legal recognition of a union, legal protection from management retaliation, and the right to negotiate a collective bargaining agreement in order to improve their working conditions. The SITRACHOI/SITRACIMA union

members explained to me that only with a union could they really present official complaints against management to the Ministry of Labor, because individually they were too scared of physical retaliation and firings and expected that management would bribe inspectors and nothing would change.¹⁹⁶

Although the unions were engaged in a significant amount of conflict with the factory management, the ultimate goal of the organizing campaign was to move beyond conflict, attain direct negotiation, and sign a collective bargaining agreement. As Enrique Torres, legal counsel for FESTRAS (the union federation supporting the unions) described, Guatemalan unions affiliated with their federation have

returned to the principle that a union only exists to negotiate. They are not a conflict group, so conflict should only be used to get them to negotiation. Negotiation is the only way to improve wages and working conditions....Using just conflict, they will break the company....A union has to search for an equilibrium....They need to keep them productive so they can negotiate.¹⁹⁷

As part of this approach, the SITRACHOI and SITRACIMA unions used conflict to attain direct negotiation, i.e. they filed innumerable legal complaints against the factory management in the Ministry of Labor.¹⁹⁸ As the unions detailed, a Labor Inspector would come to the factory nearly everyday during the most confrontational period in 2001 and 2002 because the unions were submitting nearly daily complaints against the

¹⁹⁶ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004. Personal Communication with Laura Podolsky, organizer for STITCH. January 12, 2004.

¹⁹⁷ Personal Communication with Edgar Torres, legal counsel for FESTRAS. February 2 2004.

¹⁹⁸ This type of engagement is accounted for in Anner's triangle of power and documented most specifically in Frundt (1999) when he explained the approach of clandestine leadership identification and training, followed by rapid recruitment, in-plant agitation, and legal filings. However, as we move into an examination of the tactics that the Choishin and Cimatextiles unions used to target the government we are examining an area that is not covered by previous literature.

factory management.¹⁹⁹ However, as the following analysis will demonstrate, union complaints against management were not enough to increase respect for union rights.

Tactics for Government

The approach to the local factory described above is dependent on the engagement of the government, specifically the Labor Inspectorate. The Ministry of Labor must certify the union and respond to workers' complaints against the factory management. But historically, the Guatemalan Ministry of Labor's response to worker complaints and union petitions has been less than satisfactory (see Section 2.2).

My investigation of the Choi/Cima case uncovered that Guatemalan unions (at least those associated with FESTRAS) have developed new tactics through which they engage the Ministry of Labor in the more effective enforcement of existing labor laws and legal protection of workers' rights. Specifically, they have begun to denounce the corrupt and unresponsive labor inspectors, as well as the factory management to the Ministry of Labor.

In the Choi/Cima case, the unions denounced many inspectors before they got a responsive one—Cesar Gatica. As a group, each union would stand up to the corrupt inspectors and threaten a complaint at the national and international level.²⁰⁰ Cesar Gatica confirmed that the unions' complaints against the previous inspectors, and the failures of the inspectorate that they uncovered, were important in motivating the

¹⁹⁹ Personal Communication with SITRACIMA and SITRACHOI unions. January 15, 2004.

²⁰⁰ Ibid.

Ministry to designate a permanent inspector for the Choi/Cima factories. This official decision proved indispensable for creating the dialogue that led to direct negotiations.²⁰¹

Tactics for MNC

The third piece of the local organizing strategy is a direct relationship between the union and the multinational producer. While both the cross-border organizing model and corporate codes of conduct literature depict only international NGOs, consumers, students, and unions interacting with the MNC, the Choi/Cima case demonstrates that the interactions are more complex and happening on multiple levels simultaneously. In fact, the SITRACHOI and SITRACIMA unions have established direct relationships with the multinational producer. As the in-country representative for Liz Claiborne, Pinciri Fernando explained, “[LCI’s relationship with the unions works] quite well. If they had any issues, I used to get calls from them all the time. If they need me to be present at any of the meetings, they always call. They call about rumors.”²⁰² This interaction was important to the success of the campaign because it provided direct pressure on the MNC from the workers.

In summary, at the local level, the unions tried to engage directly with factory management, but also interacted with Liz Claiborne and the Ministry of Labor to create other sources of pressure on the factory management.

²⁰¹ Personal Communication. January 30, 2004.

²⁰² Personal Communication Pinciri Fernando, in-country representative for LCI. January 13, 2004.

5.2: International Allies

While the local unions carried out these actions, their international allies were supporting them in a multitude of ways. In fact, the unions would not have achieved the desired responses if their international allies had not set the stage with the Liz Claiborne, the local factory, and the Guatemalan government.

Furthermore, the traditional explanation of the international allies' role in labor agitation does not account for the dynamics that brought about the victories at Choi/Cima. While previous accounts focus primarily on the international allies' role in engaging with the MNC, the Choi/Cima case shows that they also engage indirectly with the local factory and with government in very important ways.

Tactics for Local Factory

Anner's model of cross-border organizing does not document any direct interaction between the transnational campaign and the local factories. However, as I spoke with the organizers of these campaigns, they explained that the pressure they mobilized on the Korean president of Choi/Cima was an important part of the organizing strategy. Specifically, David Morales, the Director of FESTRAS, explained that FESTRAS, AFL-CIO, and US/LEAP coordinated with Korean, Japanese, and Taiwanese unions to synchronize their protests and to pressure the Korean president of Choi/Cima.²⁰³

²⁰³ Personal Communication with David Morales, Director of FESTRAS. February 3, 2004.

Tactics for Government

The actions of the international allies were important not only in pressuring Liz Claiborne, but also in creating pressure on the Guatemalan government in the international realm. Specifically, the coordinated consumer and student campaign in the US created intense attention for the case. Laura Podolsky made clear that "the Guatemalan government encountered this case wherever they went. When they started talking about labor rights with the US government, IMF, ex-congressman delegation, people brought up the case. It got a lot of coverage...it would seem the government's interest in resolving it was growing because it continued to be present on the international scene."²⁰⁴

This international attention proved significant for the Guatemalan government because it was in the midst of negotiations for Central American Free Trade Agreement. As Mary Mejia explained, "Guatemala was in a situation in which it had to demonstrate that it was changing and respecting labor rights."²⁰⁵ In this context, the unions' and international allies' complaint against Guatemala before the ILO intensified the attention and criticism that the government was receiving at a key moment.²⁰⁶ All of these coordinated pressures on the Guatemalan government led directly to collective bargaining negotiations in the Choi/Cima case. Laura Podolosky, organizer for STITCH, summarizes the result of the coalescence of pressures:

The impetus for the negotiations came from the national level from Ministry of Labor and the Ministry of Economy wanting to resolve this

²⁰⁴ Personal Communication. January 12, 2004.

²⁰⁵ Personal Communication with Mary Mejia, organizer for the AFL-CIO and FISTRAS. February 2, 2004.

²⁰⁶ Personal Communication with Cesar Gatica, Labor Inspector. January 30, 2004.

issue so they could get on with CAFTA negotiation and so that Guatemala would have a decent enough and improving record of addressing labor rights issues and be a viable trading partner.

A congressman, Sandy Levin, came to Guatemala in March 2003 as part of a delegation looking at the case and went back to the states and spoke about it. I think that generated more pressure and awareness again. And then there was a discussion between Neil Kearney and the labor minister in Geneva. That was another push.

There were a series of pushes that coalesced around the governments desire to negotiate free trade agreements. Also in the spring of last year when Guatemala got decertified because they weren't doing enough to stop drug trafficking. So that wasn't looking so good for them. So they were looking to score some image points and show that they actually cared about labor rights.²⁰⁷

Tactics for MNC

The actions taken by the unions' international allies are those same tactics described by Anner and Frundt. US unions and NGOs, such as US/LEAP, took their complaints directly to the brands, but these complaints were coordinated with student groups, religious organizations, and consumer campaigns to create more force.²⁰⁸ Mary Mejia, organizer for FESTRAS and ITGLWF, emphasized that "if a worker filed the complaint directly, the brand never would have received it. But if an external group like consumers submit it, that has more impact. Consumers have a lot of power to pressure a company on labor rights."²⁰⁹ Because LCI is a high-end company whose customer base tends to have a social conscience, this international coordination of pressure on brands can bring about important actions from the brand.

²⁰⁷ Personal Communication. January 12, 2004.

²⁰⁸ Ibid.

²⁰⁹ Personal Communication. February 2, 2004.

In summary, the unions' international allies tried to engage directly with Liz Claiborne by threatening their reputation, but also created indirect pressures on the local factory and the Guatemalan government in order to support the unions. These pressures in turn created an opening in which the unions could act to gain recognition, respect, and collective bargaining.

5.3: Independent Monitoring

Union organizers from Guatemala and their international allies expressed to me time and time again that they did not believe that codes of conduct and independent monitoring are the key to protecting workers' rights in garment factories. Rather, they feel that the only viable option is the formation of unions through the cross-border organizing approach described in Chapter 2. For example, David Morales told me that in general he doesn't see that monitoring increases respect for workers' rights and that "the only way to improve conditions in factories is union organization."

However, I would like to demonstrate that this organizing approach, which depends on the engagement of the multinational buyer (in this case Liz Claiborne), can actually be aided by the existence of a code of conduct and the presence of an independent monitoring group.

I intend to examine this proposal in the context of the campaign to engage Liz Claiborne in the US. The letter that Liz Claiborne wrote to the workers promising to respect freedom of association and continue production in the factory can be

identified as a fundamental action that allowed the recognition and protection of unions. While the coordinated consumer campaign was important to push Liz Claiborne to this decision, I would argue that the consumer, student, union, and NGO claims were reinforced in an essential way by the reports coming from the independent monitoring organization, COVERCO.

According to Liz Claiborne, the reports that they received from COVERCO during that time were fundamental to their decisions:

When we came to know there were unions in the factories, at that moment we had a program with COVERCO, a monitoring program, three years before the unions started. So that is one of the key factors....when we came to know there were unions, COVERCO was present during all that time from beginning to end and they had a chance to be in all meetings, all events, anything that happened in the factory and let everyone know as an independent report.²¹⁰

Pinciri Fernando's emphasis that COVERCO's reporting was independent highlights the fact that Liz Claiborne trusted COVERCO after three years of interaction in these factories. Furthermore, Homero Fuentes and Dennis Smith of COVERCO explained that "Liz Claiborne wouldn't have given us access to the factory at the time of the conflict if we hadn't already demonstrated our capacity and independence."²¹¹ And it seems that the reports that COVERCO issued regarding the violence in the factories and the violations of worker's freedom of association provided reinforcement from a trusted source of the reports that Liz Claiborne was receiving from the transnational NGO campaign.

²¹⁰ Personal Communication. January 13, 2004. (my emphasis)

²¹¹ Personal Communication. January 8, 2004.

On a final note, it is important to explicitly highlight the fact that, although a corporate code of conduct was in place and independent monitoring was being carried out, the involvement of the Guatemalan government in enforcing its national labor code was a key piece of the victory.

5.4: Recognizing the Points of Leverage

Finally, I would like to consider whether the organizing campaign's engagement with the three points of the triangle of power and the presence of an independent monitor are sufficient to explain the outcome of the Choi/Cima campaign.

I propose that the strategies and tactics of the organizing campaign were successful because they took advantage of a specific business environment and leveraged business conditions to gain respect for workers. Specifically, there were three significant economic factors that created space and leverage for the unions and their allies. First, Liz Claiborne and Choi/Cima had a long term relationship in Guatemala that had been in existence since 1992. Second, Cimatextiles was the only factory in Guatemala at the time that offered Liz Claiborne a high skill and high quality workforce. And finally, Choi/Cima had recently invested a considerable amount of money in these factories and still had a long life left on their national tax-exempt status. In particular, these factors meant that it was not to Liz Claiborne's or Choi/Cima's economic advantage to cut production and leave the factory when faced with a union and a collective bargaining agreement.²¹²

²¹² Personal Communication with Alberto Choi, Administrative Manager of of Choi/Cima. January 23, 2004. Personal Communication with Pinciri Fernando, in-country representative for LCI. January 13, 2004.

In conclusion, this chapter demonstrates how the synthesized model can be used to explain the partial success at Choi/Cima. It shows how a series of strategies and approaches worked together to allow the formation of a union, the negotiation of a collective bargaining agreement, and respect for the Choi/Cima workers' rights. This chapter reveals that the presence of the union was the essential building block of the campaign and that the union used conflict sparingly and only as necessary to attain collective bargaining negotiations. Furthermore it shows that the engagement of the government was achieved through coordination national and international pressure and was essential for the protection of the rights to freedom of association and collective bargaining. Finally, it makes clear that the provision of trustworthy information by an international monitor was essential to engaging the multinational buyers and convincing them not to cut production and leave Guatemala.

CHAPTER 6: EXPLAINING THE VICTORY AT NOBLAND

The SITRANB union and its international allies used the same approach as the SITRACHOI and SITRACIMA unions in order to gain respect for the union and negotiate a collective bargaining agreement. They applied the model as demonstrated in Chapter 4 in order to create both direct and indirect pressure on the local factory from all directions. However, in this case, victory was exponentially easier, in large part because all of the actors, including the union federation, the international allies, the local business community, the multinational buyers, and the government officials, had learned from the first two unionization cases at Choi/Cima.

This chapter will demonstrate how the actors in the Nobland case used this synthesized approach to gain victory, but will focus on how the model was refined in a way that brought about a quicker and more definitive success. Specifically, this chapter will demonstrate that the Nobland case was more successful because the union was able in large part to avoid the conflict that ensued in the Choishin and Cimatextiles cases. I will argue that there was less conflict because (1) the federation and allies had learned significant lessons from the previous cases; (2) the target actors had learned what to expect from the union and its allies and therefore responded to the threat of the model; and (3) the workers at the Nobland factory had an organizing background and a community behind them.

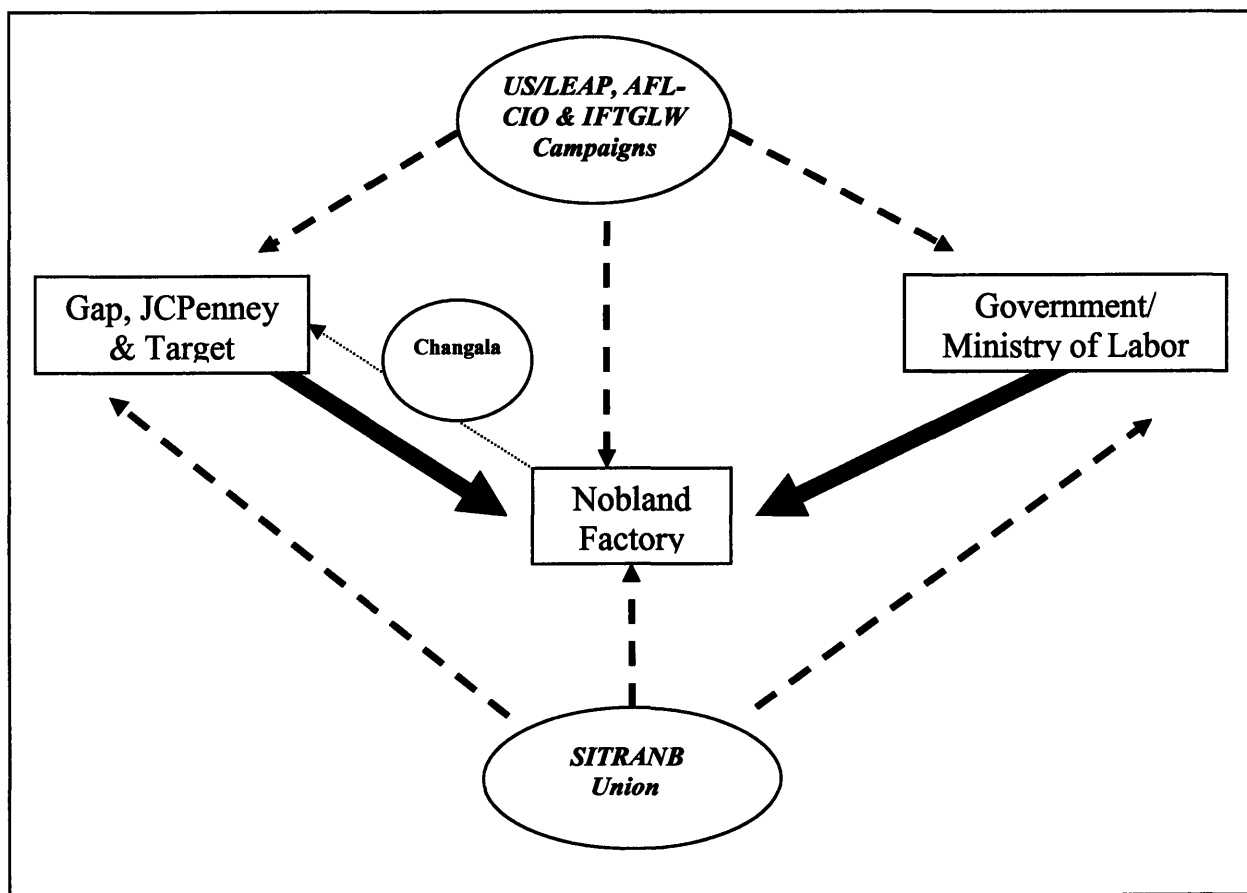
This section will not only explore how the campaign implemented the model, but also how and why the target actors reacted to the threat of the model. In this vein, it will

briefly consider how this model has changed the perceptions and responses of the local business community, government, and MNCs to cross-border organizing actions.

6.1: Local Organizing Campaign

As in the Choishin and Cimatextiles cases, the multidimensional approach at Nobland was strongly grounded in an organized local worker presence in the factory and a clear goal of using conflict only as necessary to gain collective bargaining negotiations.

Figure 6-1
The Big Squeeze at Nobland



The tactics used in this campaign were also the same—denouncing the factory management to the Ministry of Labor.²¹³ But there were also some new aspects of this campaign. First of all, the lessons that FESTRAS and the AFL-CIO Solidarity Center had learned in terms of structuring their organizing team resulted in fewer internal conflicts and a better run campaign. Most importantly, the organizing team had more clearly defined roles and responsibilities and clearer lines of communication. As Enrique Torres, legal council for FESTRAS, explained, “The organizing team learned from the Choishin cases and the Nobland team was much simpler and under the control of FESTRAS. FESTRAS didn’t make the same mistake with Nobland...there were fewer conflicts of power this way.” And because of this structure, with the Nobland campaign, the organizing team was able to “avoid a big spectacle. They made mistakes with Choishin and Cimatextiles, but now have the maturity and experience to inform and train the workers from NB.”²¹⁴

In this case less conflict was required to engage the local management and the Ministry of Labor. The SITRANB union immediately requested that Cesar Gatica be assigned as the dedicated inspector for the Nobland factory because they knew he was trustworthy and experienced after his work on the Choi/Cima cases.²¹⁵ According to David Morales, director of FESTRAS, the request for Gatica demonstrates how “they are trying to cover all the areas where they failed before. For example, they are trying to involve the Ministry of Labor earlier in the process—unofficially and not per

²¹³ Personal Communication with SITRANB Union. January 19, 2004. Personal Communication with Mary Mejia, organizer for AFL-CIO and FESTRAS. February 3, 2004.

²¹⁴ Personal Communication with David Morales, Director of FESTRAS. February 3, 2004.

any law.”²¹⁶ Once Inspector Gatica was assigned to this case, there were no complaints against inspectors filed in the Labor Inspectorate for this case.²¹⁷

Nonetheless, the government knew what was possible and had the internationalized conflict of the previous cases fresh in its mind; that is why the Ministry immediately assigned Cesar Gatica to the case and tried to proactively resolve the disputes. As Inspector Gatica explained, “We at the Ministry feel that we achieved a speedy and preventative solution without returning to the giant conflict like in Choishin and Cimatextiles.”²¹⁸ And Mary Mejia confirmed this when she said that “before the NB union, the Ministry of Labor sent corrupt inspectors. When we formed the union, the inspectors become more cautious and the Ministry sent Gatica.”²¹⁹ General Inspector Celeste Ayala explained the Ministry of Labor’s new approach that applied in the Nobland case, “We don’t want another conflict as big as was created by Cimatextiles and Choishin....We don’t want more conflict. The idea is to preventatively take care of complaints and mediate the cases were we can solve problems before they are magnified to something bigger than they really are.”²²⁰

Finally, a major difference between the Nobland local organizing campaign and its predecessors was the characteristics of the workers and the community in which they lived and worked. Most of the workers in the Nobland factory lived and worked in the

²¹⁵ Personal Communication with SITRANB Union. January 19, 2004. Personal Communication with Mary Mejia, organizer for AFL-CIO and FESTRAS. February 3, 2004.

²¹⁶ Personal Communication. February 3, 2004.

²¹⁷ Personal Communication with Cesar Gatica, Labor Inspector. January 30, 2004.

²¹⁸ Ibid.

²¹⁹ Personal Communication. February 2, 2004.

same community, had known each other for years, and therefore felt a sense of solidarity. Many of the SITRANB union leaders had a background in organizing, be it that their parents were union members, had previous leadership positions in gangs, or had organized unofficial work stoppages and walkouts in the factory. Furthermore, other workers were responsive to the organizing campaign because they trusted their neighbors and “already had an idea of what fighting the management was about.”²²¹

In summary, at the local level, the SITRANB union engaged directly with factory management, but also interacted with the Ministry of Labor to create other sources of pressure on the factory management. The lessons learned by FESTRAS, the local business community, and the Ministry of Labor from the earlier cases were significant in that they allowed the union to form, gain official government recognition, and request collective bargaining negotiations with significantly less conflict.

6.2: International Allies

As in the first two union campaigns, the work of the international allies laid the groundwork for the actions of the local union organizers. The working group of US/LEAP, AFL-CIO, and WRC engaged in direct negotiations with both the local factory management and the multinational brands in order to create a window in which the unions could act. These actors’ primary responsibility was to engage in direct conversations with the brands, particularly with the Gap, which has the most to lose in terms of reputation and was therefore the most motivated to act. By approaching

²²⁰ Personal Communication. March 24, 2004.

²²¹ Personal Communication with Mary Mejia, organizer for AFL-CIO and FESTRAS. February 2, 2004.

Gap, the international allies knew that they were in essence sending a preventative message to the Korean owner that he must keep these cases from escalating into a huge conflict.²²² But in this case, the international allies also arranged direct meetings with the Nobland management and the Korean owner of the factory. In this way, they could make sure that the management clearly understood the situation and the potential for international action.

The strategies of the international allies also demonstrate that the threat of the model is just as powerful, if not more powerful, than its actual use. For example, in the Nobland case, the allies didn't launch a huge letter-writing campaign to mobilize consumer power against the MNC; however, the threat that they could do so was always in the background as they engaged the Gap, JCPenney, and Target in conversations. As US/LEAP explained, "This campaign is very nuanced in terms of the level of coordination. It reflects years of practice, trust-building, and relationship building between actors (US/LEAP, AFL, WRC, FESTRAS, brands)."²²³

The international allies have established expectations of how they will act under certain conditions, so the brands and the local business community have learned to take their threats seriously. And this case seems to show that the threat of a long, ugly conflict can make the business community take notice. For example, the Korean president of Nobland was cognizant that a huge conflict in his factory could drag on

²²² Personal Communication with US/LEAP organizer. March 19, 2004.

²²³ Ibid.

for a long time and when asked why he accepted a collective bargaining agreement, he explained that

if we didn't, we couldn't sell in the United States. It's clear and simple. Here in Guatemala, I'm paying more than in Thailand or the Philippines. So then why do I produce here? Because it's so close to the US. And because I'm not limited by quotas and I can produce as much as I want. I don't come to Guatemala because the labor conditions are worse than in the Philippines. It's all the same to me if I have to pay a slightly higher minimum wage. I only want production that will maintain my company...I prefer that these conflicts get solved rapidly by improving some work conditions, so that we can continue production.²²⁴

These same expectations and implicit threats were essential in engaging the government in this case. Unlike in the Choishin and Cimatextiles cases, the international allies did not bring international allegations against the Guatemalan government. However, the potential risk of a huge internationalized conflict was clearly on the minds of the government as they responded to the SITRANB union. As Celeste Ayala, General Inspector in the Ministry of Labor acknowledged,

We don't want more problems like with Choishin and Cimatextiles. That is what we want to avoid. We don't want more conflicts of that magnitude. We give free technical assistance to employers and workers. These are preventative functions. We don't want another conflict as big as was created by Cimatextiles and Choishin....We don't want more conflict. This is the idea. No more conflict.²²⁵

In summary, the union's international allies tried to engage directly with the Gap and the local management by threatening their production and their reputation, but also created indirect pressures on the local factory and the Guatemalan government in order to support the union. The pressures created by a threat of action and the

²²⁴ As reported by Changala, March 19, 2004.

²²⁵ Personal Communication. March 24, 2004.

memory of the Choi/Cima conflict, in turn, produced an opening in which the union could act to gain recognition, respect, and collective bargaining.

6.3: Independent Monitoring

In this case, corporate codes of conduct again proved to be an important source of leverage on the MNCs. Independent monitoring was used to corroborate reports from workers, union, and their international allies and supply *trustworthy* information to the factory owner and multinational buyer.

Unlike at the Choishin and Cimatextiles factories, there was no long-term independent monitoring in place at the Nobland factory at the time the union formed. Despite this difference, independent verification was essentially used in the same way in all three cases to independently show that the rights of the unions had been violated by factory management at the time they formed and went public. Because there was not an inspectorate team in place that had already earned the trust of all the actors, the SITRANB union's international allies had to find one. They were able to identify Changala, a former labor inspector with the UN's Verification Mission in Guatemala, as an individual who was acceptable to the workers, management, and brands alike. He was given complete access to the factory by management and was approached by workers who considered him trustworthy.²²⁶

The use of independent verification also showed that the threat of a controversy with the Choi/Cima case fresh in the mind of the business community was sufficient to

bring the local factory management into compliance with the Guatemalan labor code. In fact, US/LEAP never had to share the report with the brands. Once the Korean owner of Nobland saw that their violations had been verified and documented by Changala, he agreed to collective negotiations. Therefore, it was not necessary to forward the independent monitoring report onto the brands in order to create more leverage for the SITRANB union.²²⁷

In conclusion, this chapter demonstrates how the synthesized model can be used to explain the victory at Nobland. It shows how a series of strategies and approaches worked together to allow the formation of a union, the negotiation of a collective bargaining agreement, and the respect for the Nobland workers' rights. While it reinforces the lessons learned from the Choi/Cima case, it also shows why this case was more successful. Specifically, the model was refined and the union was able to use the threat of conflict that was remembered from the Choishin and Cimatextiles cases to achieve negotiations. Most importantly, the federation and allies had learned significant lessons from the previous cases; the target actors had learned what to expect from the union and its allies and therefore responded to the threat of the model; and the workers at the Nobland factory had an organizing background and a community behind them. As a result, the Nobland workers attained negotiation that allowed them to improve their conditions above those required by law.

²²⁶ Personal Communication with Changala, independent inspector at Nobland. March 19, 2004.

²²⁷ Personal Communication with US/LEAP organizer. March 19, 2004.

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CHAPTER 7: CONCLUSIONS AND LESSONS

Given the realities of globalization and Guatemala's economic and institutional context, one would not expect victories for labor rights in Guatemala. One would not expect that the workers of Guatemala's apparel-for-export sector would be able to organize themselves to protect their rights.

One would not expect that, given the ongoing and heated debate that pits union organizing and corporate codes of conduct against each other as the best ways of protecting labor rights, the two systems cannot coexist.

And one would not expect that, given its history of brutal repression of trade unions and diminished state capacity after thirty-six years of civil war, the Guatemalan government would be unable or unwilling to enforce the national labor code.

And yet, in the past three years, three unions have formed and negotiated collective bargaining agreements in Guatemala's apparel-for-export sector.

In 2003, the SITRACHOI and SITRACIMA unions attained partial success. The unions negotiated the only collective bargaining agreements in the Guatemalan garment sector at the time. However, this should be considered a limited success, according to my definition, because although they now have institutions in place to protect workers' rights, they still have limited leverage vis-à-vis management to improve their working conditions. They have limited leverage because the collective

bargaining agreement was required by the government to improve their international trade image and not because the union could demand it legally. However, the partial victory thesis is supported anecdotally by improved working conditions in the factories.

In the Nobland case, I witnessed a more complete success for protection of workers' rights. The SITRANB union is powerful both in terms of numbers and bargaining ability. It negotiated a collective bargaining agreement in record time and engaged the government productively in the process. The workers attained negotiation that allowed them to improve their conditions above those required by law, i.e. they gained permission for time off to care for sick children, permission for medical leave, fairer treatment, cleaner bathrooms, and onsite childcare.

This thesis has explored why these victories were possible and what series of factors were responsible. It has also sought to explain the differences that are evident across the cases. Based on my investigation of the Choishin, Cimatextiles, and Nobland cases, none of the models for protecting workers' rights (i.e. lobbying government, enforcing corporate codes of conduct, and organizing through cross-border alliances) is sufficient to describe the dynamics at work in these victories. Rather, by isolating their approaches, advocates for workers' rights have missed complexity and ignored the ways that the individual models can work together.

In reality it was a dynamic interaction between all of these approaches that allowed the SITRACHOI, SITRACIMA, and SITRANB unions to form and negotiate the only collective bargaining agreements in Guatemala's apparel-for-export sector. These unions were successful because cross-border union organizing, corporate codes of conduct, independent monitoring, and government enforcement were dynamically combined. These cases were dynamic because they included the workers as active participants in the protection of their rights; did not rely entirely on corporate codes of conduct and pressure on the local factory from the MNC; did not give up on the possibility that the government can enforce local labor laws; and acknowledged that independent monitoring, unions, and government enforcement can be combined for positive results.

First of all, the presence of the union was the essential building block of the campaign and demonstrated respect for freedom of association. The unions used conflict as necessary to attain collective bargaining negotiations and then held it in reserve as a threat. Second, the engagement of the government was attained through coordination of national and international pressure and was essential for the protection of the rights to freedom of association and collective bargaining. This engagement was accomplished by leveraging international trade pressures. Finally, the provision of trustworthy information by an international monitor was essential to engaging the multinational buyers and convincing them not to cut production and leave Guatemala.

With these explanations in mind, I have proposed a model that describes the interaction between workers, organizers, independent monitors, government, management, and multinational buyers. Through this synthesized approach, international allies and local organizers concurrently apply pressure to the local factory, the Ministry of Labor, the national government, and the MNC. This approach tries to create both direct and indirect pressure on the local factory from all directions to respect freedom of association and rights to collective bargaining without allowing them to cut production and leave the country. The multidimensional approach provides an organized local worker presence in the factory, but also focuses local and international pressure through the MNC and government to pressure the local factory. In fact, international allies create openings for local workers' unions to pursue collective bargaining. In this model, corporate codes of conduct are an important source of leverage on the MNCs, and independent monitoring is used to corroborate reports from workers, unions, and their international allies and supply *trustworthy* information to the MNCs.

This thesis also demonstrates how the new synthesized model accounts for differences across the three cases. Most importantly it shows how the model changed expectations of the campaign targets, i.e. the local factory, government and MNCs. In other words, this research has shown how the local business community, the government, and the MNCs have learned to act to avoid conflict because they saw what a high conflict campaign could mean for their reputation.

These cases provide a series of lessons for protecting workers' rights. First of all, transnational advocacy strategies are essential for opening spaces for local action. Second, coordinated national and international pressures can motivate the national government to get involved in labor rights. Third, independent verification by a trusted source can be an important key for gaining respect from an MNC for a union. Fourth, conflict should be used as a means of attaining collective bargaining and then reserved as a threat for future campaigns.

But the most salient lesson from Guatemala is that, under certain conditions, victory for labor rights is possible; it is possible to maintain garment sector employment while increasing respect for workers' rights. And, if this sort of victory is possible in Guatemala, then it seems possible anywhere.

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APPENDIX A: INTERVIEWS AND PERSONAL COMMUNICATIONS

Individual Interviewed	Organizational Affiliation	Date of Interview
Mary Bellman	STITCH	8 Jan, 29 Jan
Homero Fuentes	COVERCO	8 Jan, 9 Jan, 27 Jan
Rolando Figueroa	VESTEX	12 Jan
Laura Podolsky	STITCH	12 Jan
Pinciri Fernando	Liz Claiborne	13 Jan, 27 Jan (email)
Anonymous	US/LEAP	14 Jan, 29 Jan, 19 Mar
David Morales	FESTRAS	14 Jan, 3 Feb
Workers	Choi/Cima Unions	15 Jan, 20 Jan, 27 Apr(email)
Mary Mejia	FESTRAS, AFL-CIO	15 Jan, 2 Feb
Lucky Bautista	COVERCO	16 Jan
Workers	Nobland Union	19 Jan
Alberto Choi	Choi/Cima Factory	23 Jan
Enrique Torres	FESTRAS	2 Feb
Cesar Gatica, Inspector	Labor Ministry	30 Jan, 25 March
Celeste Ayala, Gen Inspector	Labor Ministry	24 March
Director General	Labor Ministry	23 March
Ricardo Changala	MINUGUA	19 March