CONTENTS

FROM THE EDITOR

Welcome to the eleventh and twelfth issues of the *Journal of Workplace Rights*, presented as a double issue. The *Journal of Workplace Rights* is dedicated to the proposition that human rights should not be compromised by employers. It uses an expansive definition of human rights based on the Universal Declaration of Human rights as passed by the United Nations in 1948. A list of proposed topics can be found on our website. The *Journal* invites prospective authors to submit articles that are completely unrelated to these topics as long as their focus is on workplace rights.

An issue normally includes six articles that go through our regular review process. This time we have sixteen papers. The first two are from the regular review process, but the last fourteen are revised versions of papers that were presented at a conference. The conference organizers were great partners, and I wish to invite other conference organizers to consider putting together special issues of papers that are related to workplace rights for publication in our *Journal*. The last fourteen articles are introduced in the third article, so my comments will focus on the first two articles.

Before I preview this issue's articles, I wish to pay special thanks to the following Editorial Board member who did a terrific job of reviewing in a timely yet thorough manner: Doug McCabe. In addition, Tanya Marcum and Elizabeth Siler took time from their very busy schedules to excellently serve as ad hoc reviewers for this issue. And as always, Ann O'Hear provided impeccable manuscript editing service.

The first article is by Salvador Barragan, Albert Mills, and Mary Runte, and it is entitled, "The Mexican glass ceiling and the construction of equal opportunities: Narratives of women managers." It offers an innovative approach to understanding the shadowy world of promotion discrimination in an understudied context. The second article in this issue constitutes our "New Scholars" section. We will never publish an issue without at least one article by a "New

253

Scholar," defined as a student or a professor holding an untenured or non-permanent appointment. By Peter Whitehead, Daniel Estrada, and Star Swift, it is entitled "Potentially lethal bytes: Why e-discovery is crucial for employees in arbitration." We are happy to publish so-called "applied research" that focuses on helping employees if it provides fresh perspectives, and this article does so by explaining how workers can discover valuable information that their employers would rather conceal from them.

If you have as much fun reading these articles as I did while editing them, you are in for a very good time indeed. Our plan is to publish twelve more issues in the next twenty-four months. So if you want to be published quickly in the world's most progressive English-language academic journal, please send me your work. Readers with any questions about this *Journal* should contact me electronically at jwr@rowan.edu

Joel Rudin
Editor

THE MEXICAN GLASS CEILING AND THE CONSTRUCTION OF EQUAL OPPORTUNITIES: NARRATIVES OF WOMEN MANAGERS

SALVADOR BARRAGAN
University of Lethbridge, Canada

ALBERT MILLS
St. Mary's University, Canada

MARY RUNTE
University of Lethbridge, Canada

ABSTRACT

Equal opportunity discourses in magazines targeted toward professionally employed women and men in Mexico were examined to explore the intersection of cultural dimensions of gender (machista and marianista) and the Anglo-American discourses of diversity management, including affirmative action. Women constructed the discourse of equal opportunity for other women's careers primarily by drawing on essentialist views on the nature of men and women, most specifically the sameness perspective—to penetrate the glass ceiling, one must "be like a man." The difference approach was considered in more subtle ways as women endorsed the diversity discourse for instrumental reasons. The postequity view was only superficially employed; women professionals did not challenge the less tangible barriers of the glass ceiling in Mexico, adopting instead the essentialist views on women and men as well as the masculine and feminine characteristics attributed to each biological sex.

THE GLASS CEILING

The literature on women in management is still bringing to the forefront the lack of women's representation in upper managerial ranks in North America. These

"glass ceilings" and "glass walls" are described as "those invisible, culturally embedded assumptions and beliefs about the skills and competencies of women that prevent their advancement into top management positions" (Eriksson-Zetterquist & Styhre, 2008: 135-136). This body of literature focuses on identifying the barriers that women face in getting to the top and the strategies needed to overcome those visible and invisible barriers (e.g., Morrison, White, Van Velsor, & Leadership, 1992; O'Neil, Hopkins, & Bilimoria, 2008; Oakley, 2000; Powell, 1988). For example, Oakley's (2000) study of gender-based barriers contends that corporate practices and cultural stereotypes prevent women from getting to the top. The first type of barrier, corporate practices, may involve objective structural aspects that disadvantage women during the recruitment, retention, and promotion processes. The second type, more difficult to eradicate, is composed of those cultural aspects and stereotypes that favor men over women. Similarly, a review of the literature on women's careers (O'Neil et al., 2008) underscores the multifaceted aspects of women's careers and lives, suggesting that organizational practices are not only male dominated but also one-dimensional and, therefore, disconnected from women's larger-life contexts.

While these literatures have been useful in identifying the various structural barriers to women's advancement, we argue here for a feminist approach that goes beyond the apparent concrete and essentialist barriers to women's advancement to include poststructuralist feminist theorizing, in which the emphasis is on "the cultural production of [female and male managers'] subjectivities and the material production of their social lives" (Calás, Smircich, & Bourne, 2009: 555).

Feminist researchers, who endorse the social construction of subjectivities, have noted that the use of male models of research privilege rationality and essentialisms, ignoring women's subjectivities and experiences (see: Calás & Smircich, 2006; Martin, 2000; Mumby & Putnam, 1992). At the same time, the notion of "the other" has implications for the assumptions responsible for the "glass ceiling" and "glass wall" (Eriksson-Zetterquist & Styhre, 2008). In consequence, when studying these barriers and/or women's careers, it is important to note that both organizational and research practices can be enriched by other perspectives outside the dominant literature, which pinpoints individuals' attribution of essentialist differences about the other (Butler, 1990), producing some of the assumptions and beliefs that create the "glass." In order to avoid this, feminist scholars have suggested some models of intervention designed to overcome some of the barriers already mentioned (e.g., Billing, 2011; Ely & Meyerson, 2000; Eriksson-Zetterquist & Styhre, 2008; Martin, 2003; Meyerson & Kolb, 2000; Nentwich, 2006; van den Brink, Benschop, & Jansen, 2010). A common thread in these feminist studies is that they draw on liberal feminist perspectives at some level but also go further, drawing on poststructuralist feminist perspectives in order to reveal the theoretical and practical implications for the promotion of women's careers of how "gender equity" and "equal opportunities" are constructed according to specific gender assumptions.

Drawing on the feminist poststructuralist approach, this article is structured as follows. First, we discuss three perspectives on advancing gender equity based on Meyerson and colleagues, as well as the discursive constructions with regard to intervention programs designed to change inequality (e.g., Billing, 2011; Ely & Meyerson, 2000; Eriksson-Zetterquist & Styhre, 2008; Meyerson & Kolb, 2000). Second, we offer a contextualization of the development of equality and the glass ceiling in Mexico. Third, we discuss our method of using written narratives appearing in magazines. Finally, we analyze the narrations of equality in Mexican organizations as well as presenting our theoretical and practical conclusions.

GENDER EQUITY FOR WOMEN
IN TOP POSITIONS

Here, we discuss the theoretical framework, which consists of three perspectives: sameness, difference, and postequity. Each of these perspectives has its own gender-based assumptions and beliefs and, therefore, each has a different discursive construction of what "equal opportunities" means and how it should be achieved.

The first, the "sameness" or "equal opportunities" perspective (Nentwich, 2006; van den Brink et al., 2010), is based on the "liberal individualism" and "liberal structuralism" theories, in which men and women are considered equal, but on the one hand, it is perceived that women have been socialized differently, and on the other, it is perceived that sex-differentiated structures create asymmetries of power in favor of men (Calás & Smircich, 2006; Kanter, 1977; Nentwich, 2006). In consequence, if the socialization of individuals is responsible for the differentiation in power, liberal individualism recommends training women to overcome their weaknesses, giving room for the expression "fix the women" (Ely & Meyerson, 2000; Martin, 2003). It is also suggested, from the liberal structuralist perspective, that all the structural barriers preventing women from succeeding should be eliminated (Meyerson & Kolb, 2000) by changing organizational policies, offering flexible schedules, allowing working from home, providing less hierarchical career paths, and implementing other programs to reduce discriminatory practices and some gender-based stereotypes. However, it has been noted that treating men and women as equals will work only if they are the same (Nentwich, 2006). At the same time, there is always the risk of trying to "normalize" women according to the male norm (Martin, 2003), and this has implications not only for women managers, who might display a variety of complex and contradictory identities, but also for men, due to the assumption of a "hegemonic masculinity" rather than a variety of "masculinities" (Hearn, 2004). In summary, Billing's (2011) assertion that women may not be overshadowed by the phantom of the male norm, which is a social construction rather than a fact, resonates with us.

The second perspective, the "difference" or "value difference" perspective, emerges from the standpoint feminist theory (Harding, 1986; Meyerson & Kolb, 2000; Nentwich, 2006) in which difference is recognized and celebrated along with essentialist views on women and men and the different ways in which they behave. There is some return to valuing some "characteristics that are traditionally seen as "feminine," such as being empathetic, sympathetic, nurturing, non-competitive, deferential and having good listening skills" (Martin, 2003: 73). According to this view, gender equity is constructed by treating individuals differently according to their gender and offering training to expose and exploit those differences. As part of this re-valuation, it is expected that the asymmetries of power will be removed. Nevertheless, this strategy may reinforce the traditional stereotypes and dichotomies of masculinity and femininity attached to men and to women.

The third, "postequity," perspective (Meyerson & Kolb, 2000) rests on post-structuralist feminist theorizing (Butler, 1990; Weedon, 1987) and social constructionist feminism (West & Zimmerman, 1987). According to this view, essentialist notions of individuals' identities and subjectivities, which can be seen in the previous two perspectives, are challenged. While in the sameness and difference approaches, biological sex is used to attribute specific characteristics to men and women (West & Zimmerman, 1987), in the postequity approach, a distinction between sex and gender is made. Biological sex is determined by reproductive organs, while "[g]ender, in contrast, refers to a classification that societies construct to exaggerate the differences between females and males and to maintain sex inequality" (Reskin & Padavic, 1994). This process of constructing differences occurs through gender practices such as the use of accepted forms of language and expressions (West & Zimmerman, 1987), among other practices. Thus, practicing gender refers to "literally saying or doing gender" (Martin, 2006: 258), which has implications for gender identity, creating some of the cultural and gender-based stereotypes promoting the glass ceiling. Individuals' identities and the characteristics associated with them are considered to be discursive constructions (Foucault, 1977). According to this approach, identity is not treated as an essential collection of the unique traits of an individual. Rather, it is conceptualized as a social construction and a relational concept (Kärreman & Alvesson, 2001) characterized by asymmetries of power. In other words, men and women, when constructing their identities, are to some degree objects and subjects of external social conditions (Kanter, 1977). Consequently, gender identities are constructed by what Acker (1992: 250) "refers to [as] patterned, socially produced, distinctions between female and male, feminine and masculine." Going further, "doing" or "saying" gender means that socially constructed distinctions are reproduced within organizations and institutions. Specifically, the rules of what is accepted and what is not stem from organizational cultures, having "implications for the construction and reproduction of gendered relationships" (Mills, 1988: 366). Some of these rules marginalize the "feminine"

and favor the "masculine" (Ferguson, 1984; Mumby & Putnam, 1992). Similarly, organizational structures (such as the bureaucratic structure) favor men over women (Ferguson, 1984; Kanter, 1977). These gendered structures and gendered divisions of labor "produce gendered components of individual identity" (Acker, 1990: 147). In other words, these structures have "normalized" women's identities and behaviors (Foucault, 1977). In such a situation, women may have to adopt the image of the "ideal worker," which marginalizes them because it means "to become like a man" (Acker, 1990: 150). In summary, the postequity perspective challenges the dilemmas created by the sameness and difference perspectives by exposing the social constructions of gender and equal opportunities (Nentwich, 2006).

All these perspectives may be adopted by change agents to challenge gender inequity in organizations, and they may not be mutually exclusive in organizations (van den Brink et al., 2010). However, the postequity perspective has rarely been used as an intervention perspective (Hearn, 2000). The way in which change agents discursively construct gender equity, along with the advancement of women managers, has implications for the reduction of inequality (Nentwich, 2006). These constructions are historically and culturally located (Alvesson & Billing, 1997), and, to demonstrate this, we turn to the Mexican context to show that they provides different lenses with which to study the construction of equal opportunities for women managers. It has been noted that the intersection between global and local in the construction of what it means to be a woman or a man should not be ignored (Calás & Smireich, 2006).

WOMEN MANAGERS AND
THE GLASS CEILING IN MEXICO

Both historical and cultural aspects of the formation of Mexican society have had implications for the sense of self of individuals and the way they perceive equal opportunities. The family has been a very important institution in society. After the conquest by the Spaniards more than 400 years ago, Mexico became a Catholic country, in which family "devotion" and traditions were dominant values (Stevens, 1973). Some contend that gender roles such as those of machismo and marianismo were prescribed for men and women, respectively. Machismo prescribes an exaggerated form of masculinity and responsibility toward the family (Diaz-Guerrero, 1975; Stevens, 1973) and has been described as men's domination of other men and women (Pablos, 1999); marianismo constructs an ideal template for womanhood, which is counterposed to machismo in Latin culture (Stevens, 1973). Marianismo presents the image of the submissive and saintly woman devoted to her family as an ideal for other women to emulate. The family has been a traditional and important cultural institution for society and especially for women. The role of the woman as a submissive wife and a self-sacrificing mother has been reinforced by machismo and marianismo, and it

continues even today. But while many families still have an expectation of male dominance where the supremacy of the father is unquestioned, and so is the self-sacrifice of the mother (Pablos, 1999), social class, as an important axis of identification, mediates these gendered beliefs. For instance, a study of Mexican mothers in urban Mexico contends that while middle- and working-class mothers still see motherhood as an important source of identification, middle-class women have added alternative sources of feminine identity such as work (García & de Oliveira, 1997).

The gender roles attached to Mexican culture (Gutmann, 2007), have been evolving historically, especially in terms of women's rights to equal opportunities. Following the Revolution of 1910, women were not allowed to vote for fear of their alliance with the Catholic Church, which was seen as an enemy of the ideals of the revolution (Craske, 205). It was not until 1953 that women acquired the right to vote (La-Jornada, 2002), 27 years later than in the United States. Similarly, women were excluded from holding public office and were officially excluded from working in traditionally men's jobs until 1974 (Fernandez-Poncela, 1995), when an amendment to the Constitution provided for equal opportunities for women and men.

Globalization is in part responsible for creating new discourses of human rights and equal opportunities, including affirmative action. The signing of the North American Free Trade Agreement (NAFTA), for example, gave rise to the North American Agreement on Labor Cooperation (NAALC), designed to protect workers' rights in the United States and Mexico (Kelson, 2000). In addition, transnational corporations have brought in equity programs and practices for the development of women at work, and some local Mexican companies have adopted these practices (Zabludovsky, 2001). The incorporation of Mexico into NAFTA has increased women's participation in the Mexican labor force (Valdes & Gomariz, 1995) and has increased their movement into managerial positions (Zabludovsky, 2001). Today, women hold close to 40% of the total jobs (Mack, 2010).

Nonetheless, by 2007 just 1% of the working women in Mexico held a position at the highest managerial level and just 3% held a top managerial position (Delaunay, 2007). Putting these numbers into global perspective, we see that Mexico ranks 98th out of 134 countries on the World Economic Forum's Corporate Gender Gap Index, while the United States ranks 31st (World-Economic-Forum, 2010). Another study reports that Mexican employees perceive less discrimination than do American employees; to be exact, the proportions of perception of discrimination were 10% and 45%, respectively (Bennington, Wagman, & Stallone, 2005). In comparison with other Latin American countries (Argentina, Brazil, and Colombia), Mexico showed the least egalitarian attitudes toward women in a survey conducted among undergraduate university students (Olivas-Luján et al., 2009). These cultural perceptions and attitudes intersect with discourses of equal opportunities. Change agents, especially women

in positions of power, make sense of both social context and organizational rules to extract gendered cues (Helms Mills, 2003; Helms Mills, 2005), and this process has implications for promoting change to further other women's careers.

The affirmative action and Anglo-American discourses of diversity management are rooted in the business case: business accepts that diversity enhances organizational performance (for a review: Meriläinen, Tienari, Katila, & Benschop, 2009; Prasad, Mills, Elmes, & Prasad, 1997; Tienari, Holgersson, Meriläinen, & Höök, 2009). Therefore, many multinational enterprises (MNEs) are introducing these discourses into local contexts for instrumental reasons. Locating this study in Mexico makes it possible to understand how equal opportunities are conceptualized and the consequences this process has for the Mexican glass ceiling. In addition, "relations of difference vary across societies," and it is necessary to study how discourses of equality are translated into local contexts (Meriläinen et al., 2009: 240). The research questions that will be addressed are as follows:

(1) How do women managers in Mexico construct the equal opportunities discourse for other women's careers?
(2) In what sense do these constructions come from the adoption of the sameness, difference, and/or postequity perspectives?

METHOD

This study takes into account the narrative "turn," which "self-consciously opposed a social science thought to be excessively analytic" with causal relations between "reified constructs" (Abbott, 2007: 69). This has been the case in traditional career theory, in which the dominant "dispositional discourse" has been challenged, inviting researchers to consider less essentialist views, with a more constructivist focus (Young & Collin, 2004). Accordingly, the importance of using narratives has been pointed out, and story-based research has been declared to be a legitimate way to produce knowledge (Boje, 1991; Czarniawska, 1997; Gabriel, 2000). The use of written narratives, such as autobiographies and life stories, is considered to be well fitted for identity work and for the construction of others (Czarniawska & Gagliardi, 2003; Reissman, 2008). We use written narratives of women managers in Mexico collected in magazines; we note that the use of written managerial narratives is still underdeveloped (McKenna, 2010; Watson, 2009). In addition, the use of business magazines is important as a source of identity cues for managers. Watson and Bargiela-Ciappini (1998) suggest that management magazines are discursive resources that managers can draw upon to make sense of their roles. Nowadays, it is not unusual to find covers of business magazines that advertise success stories of women managers who have broken through the glass ceiling in North America, including Mexico. Hence, the analysis of narratives of women in managerial positions, contained in

business magazines, provides a window into the discursive identities of these managers, and the possibility of revealing which perspectives, sameness, difference, and/or postequity, these managers, as change agents, adopt to challenge inequity in Mexico. The views they endorse will shape the views of others who read these sources in search for ways to break through the glass ceiling.

Collection of Narratives

The criterion for the selection of narratives was variety in the accounts of women managers (Kelan, 2009). First, the narratives were selected from three magazines that have different orientations in terms of ideology and audience but whose readership in all cases includes professionals and managers. Second, we searched for written narratives of women managers working for different types of organizations (public and private; national and multinational) and in different managerial positions (top and divisional managers; executives and entrepreneurs). Third, all of the narratives had to address the topic of gender equity in Mexico. Finally, we purposefully chose six narratives from three different magazines (see Table 1 for information on these women, their companies, and the magazines). The purpose of the selection was not to enable us to make generalizations with regard to top managers, organizations, or magazines, but to enable us to develop an argument in relation to the discursive equal opportunity practices endorsed by some women managers.

Analysis of Narratives and Discourse Analysis

The analysis involved two steps. First, each of these narratives was analyzed individually using discourse analysis (Fairclough, 1992), in order to reveal some of the discursive practices on which these women draw to evoke their careers and the discourse of equal opportunities that they use in relation to the careers of other women.

Second, we set out to reveal the link between the equal opportunity discourse that these women comment on and the sameness, difference, and/or post equity perspectives. Here we focused on the taken-for-granted assumptions and beliefs that, through the effects of language on the construction of masculine and/or feminine attributes, have come to be attached to men and/or women managers as well as to their managerial careers. Finally, we examined how these assumptions lead to the adoption of specific ways to tackle the barriers for women in their efforts to break through the glass ceiling.

All the narratives were written in Spanish. The first author conducted the first analysis. This was initially done in Spanish, in order to capture the contextual aspects of the language in constructing women's identities and their approach to equal opportunities for other women. Then the narratives were translated into English. The other two coauthors read the narratives in English, as well as the first analysis. Finally, they provided their own input into the uncovering of the discourses.

Table 1. Women Managers, Organizations, and Magazines

Name/Position	Organization	Magazine/Orientation
Carpinteyro, Purificación General Manager	**Mexican Postal Service (SEPOMEX)** State-owned decentralized agency. Competes with private industry. 11,000 postal workers (100 are women). Both men and women ride 60-kg motor bicycles.	*MILENIO* Political and journalistic orientation. Usually covers leaders in the political arena. Critical tone.
Carrillo, Maria T. Manager of the Corporate Communications Division	**Hewlett-Packard Mexico (HP)** Foreign-owned IT corporation operating since 1966 in Mexico.	*MUJER EJECUTIVA [Executive Women]* Oriented to women managers. Part of Mundo Ejecutivo [Executive World] Group, which edits another magazine using the group's name. The magazine presents profiles of top women in multinational enterprises and large Mexican corporations.
Fuentes, Angélica CEO of the Group	**Omnilife** Dedicated to the nutritional supplement industry in Mexico and in 22 other countries. One of the 200 leading companies in Mexico.	
Garcia, Adriana Founder and Business Unit Director	**PRAXIS** Services: consultancy and systems development. Offices in Mexico, the United States, Canada, and Panama. One of the best companies to work for in Mexico, 2007.	*ISTMO* Edited by the IPADE Business School, an AACSB-accredited top Mexican business school with a Catholic and conservative orientation. The magazine has published a special issue for women executives, from which we obtained these three accounts.
Clave, Catalina Head of Information and Statistical Products	**Mexican Stock Exchange (BMV)** State-owned financial entity that supervises and regulates the stock exchange in Mexico.	
Blok, Liliana General Manager	**Back to Business** Human resources firm focusing on issues of outplacement, coaching, and change management.	

NARRATING EQUAL OPPORTUNITIES DISCOURSE

In general, the women in this study talk about the traditional and still machista culture of Mexican business: "The performance of women in the work's sphere is still marked by a traditional culture"; "In spite of the years that have passed . . . in Mexico [those aspects] have not been eradicated"; "There is still too much to do"; "[C]ompanies need to take some risks [with women]"; . . . "[I]t is the men who are not used to working with women"; "[W]hy male executives have problems in listening to women executives? This is a challenge in the Mexican business society"; and "The financial sector is generally male dominated."

At the same time, when they refer to their own experiences as top managers, they bring into their narrative a managerial discourse of identification with their positions and the hard work they have done: "Continuing to work on this is a passion for me"; "Work, work, work, there has always been too much work. . . . It has been too much work, constancy and discipline"; "I can achieve something positive not only for me, but also for the company and what it generates"; "this is a formula [with which] to feel satisfied and happy, because you know that you are contributing to the advancement of the organization"; "I started this company five years ago, and it has generated good financial results in addition to the social role we perform."

Some have made personal sacrifices and rejected, implicitly, the traditional role of marianismo for developing a professional career or they have questioned other women for not making the same sacrifices: "One of my decisions was to focus all my energies and efforts on my professional development and not to have a family"; "I feel I am satisfied with my roles. . . . The only role I wasn't able to fulfill with success was as a partner. I was married twice"; "this is the most challenging thing for successful women in businesses. . . . children are tolerant, but [the problem is] with your partner"; "I have witnessed the desertion of women whose careers were in full ascendance, but when . . . marriage and pregnancy arrived, . . . these women never returned to their profession." In the same vein, they also see themselves as role models helping other women to succeed at work: "Those of us [who have succeeded] have the obligation to be a role model and to help those who come behind"; "[w]e have a responsibility toward the women of today and those who will come, to show that we can compete strongly"; "Changing this . . . is my contribution to the organization"; "I had come to this world . . . along with other women, to open the road to many others who were behind me."

After talking about the business society, how much work they have done, and their identification with their roles as managers, they also narrate explicitly what they consider to constitute equal opportunity for other women in Mexico and what is needed to reduce the barriers that create the glass ceiling and the glass walls for colleagues at work. Implicitly, they also express their views on how gender equity should be accomplished in Mexican organizations, in the

course of describing their careers and those of other women. In so doing, they draw on the three perspective of sameness, difference, and/or postequity. They seem to endorse more than one perspective at the same time, even though the "postequity" perspective is not explicitly endorsed or even visible in their accounts. In general, they tend to adopt the sameness or the difference perspective, as shown by the assumptions they made with regard to other women.

The Sameness Perspective

In their use of the repertoire of the sameness perspective, the narratives of some of the women seem to invite other women to behave "like men" by adopting behaviors that are attributed to them. Therefore, one of their assumptions is that women may be different in terms of socialization. Consequently, they have to overcome "their weaknesses." For example, in order for a woman to be a manager in Mexico, it is necessary for her to commit herself just as a man would:I am not the best example of making a personal life compatible with a professional life. One of my decisions was to focus all my energies and efforts on my professional development and not to have a family. It was because in order to really compete in a world dominated by men, it was necessary to have total availability . . . 24 hours and seven days a week. (Carpinteyro, 2008)

Carpinteyro has this expectation not only for herself but also for women who aspire to enter the lower echelons of the postal industry. These women need to adapt to a male environment, where it is necessary to be physically strong in order to ride a motor bicycle. Carpinteyro also endorses an equal opportunities discourse of sameness, where equal rights are equated with equal conditions. Hence, there is no comment on removing barriers for women other than with reference to their own internal barriers:

if we want equal rights, we have to be determined to perform under equal conditions. For instance, if a woman is hired as a postal worker, when she receives a motorbike, she may say, "Not for me, because it is too heavy." In this case, if the woman is afraid of having "broken nails," definitely she is not the right fit for that position. (Carpinteyro, 2008)

By evoking the Mexican saying with regard to "broken nails," she adopts the Mexican machista discourse commonly used when a man challenges the manhood of another. Later on, she offers examples of women who have achieved success by adopting what she considers the male attributes of the ideal postal worker, whom women should emulate: "there are 100 women who ride 60-kg motorbikes, among [whom] you can find stories of competitiveness, strength, and high performance."

Similarly, Carrillo evokes the characteristics that a woman manager should have. Again, in this description, these characteristics are those associated with men, and women need to adopt them in order to reduce their weaknesses:

> Women need to be more audacious and aggressive. At the other end, companies need to take some risks and say: "OK, I'll bet on her." . . . Few women dare to dream of this position; it seems that they say, "That is too much"; we have to overcome this [attitude], and ask ourselves "Why not?" (Carillo, 2009)

Carrillo suggests that organizations should bet on women's careers. Hence, she is touching on the argument of reducing structural barriers for women. However, the way in which she uses the word 'bet' seems to assume that this is an action based on luck rather than on calculated risk. Carillo's underlying assumption rests on the socialization of women in Mexico:

> It is necessary to have both an ambition and a vision to make a career. We prepare for it, but there is a lack [of the] self-assurance [necessary] to get to the highest levels. I have witnessed the desertion of women whose careers were in full ascendance, but when . . . marriage and pregnancy arrived, and sometimes [there was a] lack of companies' openness for this, then, these women never returned to their profession. (Carillo, 2009)

Blok and Fuentes also agree with the idea of strengthening a woman's self-assurance. Blok sees victimism (i.e., marianismo) as a cultural problem affecting women's self-esteem:

> Another relevant issue refers to self-esteem, a very difficult cultural problem at the level of gender. We have to ask ourselves which methods are there to raise the voice: women have to leave behind the victimism, fight to get educated and trained more and more. (Blok, 2009)

Fuentes makes specific reference to the energy sector, which is male dominated (i.e., exhibits a glass wall), and she notes that women have what it takes to be there. She reinforces this idea by using the metaphor of "working arm in arm" in this sector, which seems to mean inviting women to be "like men":

> The most important part [for a woman in business] is to believe in oneself, to have self-esteem, and to know that you have all the elements in yourself to be able to succeed. Never to compete against men or women. . . . I learned not to compete with men in the energy sector, because at the end of the day, I understood that the best thing was to work arm in arm. (Fuentes, 2009)

In this connection, Carpinteyro brings forward the fact that men are surprised when a woman reveals that she is capable of making decisions and having "a strong hand." In her experience, men attribute these forms of "masculinity" and "rationality" to men (Mumby & Putnam, 1992), but in her view, they are not the exclusive property of men. On the contrary, she considers that women have to acquire them to succeed in a male world:

> Yet, being a woman has the advantage of the "surprise factor" . . . those who think that belonging to the feminine gender means that they do not have either the strong hand or the capacity to make decisions. I know that those

women who are taking managerial positions, we have a responsibility toward
the women of today and those who will come, to show that we can compete
strongly. (Carpinteyro, 2008)

Clave is the only one of these executives who is specific about structural barriers outside the organization. She compares the schedules of schools in Europe, which fit in with working women's careers, with those in Mexico, which do not. She comments on the fact that Mexico is not ready to support a high number of working women in terms of schedules and laws:

In Europe, the schools offer schedules up to 5:00 pm and the parents can
pick their children up after work. In Mexico, in spite of the high percentage
of working mothers, the schedules and the laws do not provide clear support
for the professional development of those workers. (Clave, 2007)

Finally, Garcia challenges Mexican society and calls on business schools to learn to understand why women executives are ignored by their male colleagues, and she also talks about the process followed by her own company to overcome the cultural and socialization barriers:

Business schools should make contributions with regard to how to improve
the labor relations of the teams led by women. We need to understand
why male executives have problems in listening to women executives. This
is a challenge in Mexican business society. For Praxis, this has been a
process, but I think we have overcome it. (Garcia, 2007)

In all these constructions with regard to the ways to achieve equal opportunities, the majority of the arguments seem to draw on liberal individualism by working on women's weaknesses. There are a few arguments drawn from the liberal structural viewpoint, according to which organizations and society should be changed. From this repertoire of sameness, it seems that training women will be useful in overcoming gender socialization. Similarly, training men will be effective in showing that there are no "surprise factors" in terms of women's ability to make decisions, be competitive, be strong, and be committed to work. At the end, the women in this study call on women to be "like men" in order to compete in the male world of business.

The Difference Perspective

These women also endorse the difference perspective, but only one of them explicitly refers to valuing the feminine traits attached to women. Garcia clearly utilizes the discourse of difference when she points out that women are "naturally" better equipped "to attend clients":

My company is composed of eight managers, of which five of us are women.
I have pushed feminine development very much, because I consider that we
have the capacity, by nature, to attend to more than one activity at the time. . . .
This has been an influence on Praxis to have the majority of the positions with

> responsibility occupied by women. . . . my experience is that women know better how to attend to the needs of the client. (Garcia, 2007)

Garcia not only attaches these feminine characteristics to women, but she also values them because they are assets for the service industry: "In the service industry, it is very easy to determine who gets the position, the one who produces better results. In this context, I don't see obstacles [for women]." She does comment, on the one hand, on sexual harassment as a barrier for women, but on the other, she notes that women fit the service industry because customers want attractive women:

> I see [obstacles for women] with the problem of sexual harassment. Men in positions of power can turn a personal issue into a professional one. . . . It is difficult for a woman to confront this problem due to fear of being misunderstood or fear of risking her job. . . . We have some clients who require from us attractive consultants. I have already become used to not saying anything in this regard, but in reality it shouldn't be. We should be measured according to talent and capability. (Garcia, 2007)

The other women use a more implicit way of supporting this view when they present the business case for diversity. In other words, one issue that emerged in these accounts is the assumption that differences between men and women are beneficial to the organization. Therefore, involving women provides different views and skills for decision making: "Currently, my teamwork is mixed and that enriches everybody. The diversity allows us to find different points of view and it generates alternatives" (Clave, 2007). Difference also provides appropriate lenses through which to understand the needs of women consumers. In consequence, it provides another reason to incorporate women at work, according to some of the women managers:

> There is still too much to do . . . but organizations [in Mexico] are aware of diversity. Today, women play an important role from the economic point of view, and for that [reason] it is important to include them in organizations. In this way, from the inside, they can analyze what products they want from the outside, now that they have purchasing power. (Carrillo, 2009)

Allowing diversity, as a form of difference, is also seen as a good means of attracting talent and in consequence as an organizational asset in terms of competitiveness. Training and development of the difference is also suggested:

> I think that what is more fair is that the companies be a competition venue for all the diversity, of which gender is only one part. The idea is to compete and to highlight talents. The business position should [be to] aim to train and provide development opportunities regardless of the difference.
>
> If half or more of the world's population is female and companies hire only men, we lose at least half the talent. (Blok, 2009)

In summary, the difference perspective has different connotations, such as valuing feminine characteristics, training the workforce to accept and benefit from diversity, and being a way to attract a different type of talent. Refusing to accept the difference will not benefit the organization. It seems that the women in these narratives endorse in a greater degree the advantages of diversity than the advantages of equal opportunities. While the former is clearly convenient for the organization, the latter may hinder its effectiveness and is not clearly supported.

The Postequity Perspective

This view did not surface clearly among the women in this study. There were a few instances in which the assumptions of fixed identities or specific attributes for women and men were challenged. For instance, Garcia challenges the assumption that women should stay at home. On the contrary, she sees women as the ones who are the breadwinners of the family rather than the nurturers:

> In my professional career, I have realized that a number of women are the ones [who] sustain the economy of the family. And many times it is the men who are not used to working with women. Changing this assumption is my contribution to the organization. (Garcia, 2007)

She also contends that cultural aspects of a particular society may shape the assumptions of roles that are to be attached to the public and the private sectors and to women and men. She narrates her experience in negotiating with an Indian company, which expressed even more extreme gender assumptions:

> In 2000, an Indian company tried to acquire our company. For them, it was shocking to see a board of directors meeting with the general manager and the women executives. For them, a man with a certain purchasing power is responsible for "taking" his wife "out of work." This is clearly an example of the cultural differences and mentality on which the differences in gender depend. (Garcia, 2007)

Another example of this view comes from Carpinteyro, who draws on the postequity approach to show how essentialist characteristics associated with women and men in terms of performance and career development constitute a barrier at the level of the glass ceiling. She provides some perspective on how women managers were considered by men managers in the past and how they are considered in the present, if they achieve promotion:

> During the early stages of my professional career, being a woman put me in a group of people who did not see the woman as an effective alternative. In spite of the years that have passed since then, in Mexico [those attitudes] have not been eradicated. There are prejudices with regard to how women achieve top executive positions. There is a tendency to attribute those achievements to other factors, but [not to] women's capabilities. When a man is assigned to a top position, his competence is assumed, while in the case

> of a woman it is attributed to any other reason, especially if she is pretty or attractive . . . [and this] can be an obstacle to her professional development rather than an asset. (Carpinteyro, 2008)

In this account, Carpinteyro challenges prejudices with regard to women's advancement to managerial positions. It is believed that if the women are attractive, their performance may not be the reason for their advancement. However, she also questions the belief that men acquire those positions due to their talent and performance.

Clave seems to be discussing the sameness-difference dilemma when she starts to problematize the gendered assumptions found in the discussion of labor issues:

> I would like to support those situations that seem to benefit the woman, but in fact, it is the whole society that is favored. In my teamwork, the majority of my [women] collaborators are young and the first newborns start to appear. I believe that we should rethink the labor issues without thinking if [an issue] is related to a woman or to a man. (Clave, 2007)

However, she draws on family discourse in Mexico when she states that family is the key issue and not gender equality. The problem is that she does not specify equality of responsibility in the private sphere (i.e., in motherhood and fatherhood) when she compares the "professional development" of a woman with the "disintegration of the family":

> we should support a society firmly based on the family. . . . I try to put [myself] in the shoes of those women. I consider that we, the women, need to develop professionally, but in order for the country to improve itself, a solid platform based on the family is necessary. We cannot risk the disintegration of the family for professional development. How can we have a better society, if we do not take care of it in an integral way, regardless of gender? (Clave, 2007)

In summary, the sameness-difference dilemma is sometimes questioned by women in this study. However, they do not fully assume a postequity view in their narrations, when they are constructing the equal opportunities discourse. There are some challenges to traditional women's roles in the assertion that many women sustain the family economically, and, hence, society should become aware of this fact and break with traditional roles. At the same time, the reasons given for why men and women advance in the organization are also challenged, by the assertion that prejudices favor men's performance over women's. Nevertheless, in these accounts there is no clear endorsement of the postequity view as the root of the solution to the glass ceiling.

CONCLUSIONS

In this article, we have used a theoretical framework with regard to advancing gender equity that is based on the work of Meyerson and colleagues (Ely &

Meyerson, 2000; Meyerson & Kolb, 2000) and the discursive constructions placed on the intervention programs that are to be used to remove inequality (Billing, 2011; Eriksson-Zetterquist & Styhre, 2008; Martin, 2003; Nentwich, 2006; van den Brink et al., 2010). This framework elaborates three different perspectives to conceptualize gender equity, perspectives based on different assumptions and beliefs with regard to the nature of gender. Each of these positions responds to different feminist theoretical views. The first two approaches present the dilemma of "sameness-difference," based on essentialist views of the nature of men and women, while the third approach, "postequity," offers a deconstructive way to understand the dilemmas posed by the previous two views (Nentwich, 2006). Using this framework makes it possible to see how each of these views constructs in different ways the means to achieve equal opportunities, and it offers the possibility of understanding the barriers that create the "glass ceiling" in alternative ways. Despite the fact that the mainstream literature on the glass ceiling and barriers for women trying to get to leadership positions (e.g., Morrison et al., 1992; O'Neil et al., 2008; Oakley, 2000; Powell, 1988) asserts that gender stereotypes are one of the nontangible barriers, it does not elaborate in detail the role of language not only in mirroring what is out there but also in constructing it. For example, see Acker's (1990) and Gherardi's (1994) contention that the symbolic images contained in those constructions legitimate inequalities between men and women by re-producing the hegemony of the "old boys club." We located this study in Mexico, which offers a combination of gendered local and global discourses shaping individuals' subjective positions and processes of identity construction (Alvesson & Billing, 1997; Calás & Smireich, 1993, 2006), such as the construction of equality in organizations based on sex and gender.

Our reading on these narratives is that the women in this study construct the discourse of equality drawing on the three perspectives. However, we argue that the sameness perspective was used in most depth and most extensively in their accounts. It seems that women who aspire to managerial positions appear to need to address their "weaknesses," whether these are due to their nature or to the Mexican society and business culture in which they have been socialized. In other words, they have "to be like men" in a machista society, in the sense that they have to be more aggressive, audacious, and self-assured, they have to abandon their victimism and low self-esteem; and they have to prove they can make decisions and be tough. Even if they are confronted with the marianismo discourse of family responsibilities, they should not abandon their careers, and some of the narrators see themselves as role models to show that it is possible for women to have a managerial career. The difference perspective was less explicitly endorsed in the sense of women's characteristics having to be re-valued and celebrated. The difference approach was considered in more subtle ways, by the women's endorsement of the diversity discourse for instrumental reasons. Women in organizations bring diversity, which means providing different points of view, enabling organizations to understand women as consumers, and providing a

source of talent. Therefore, the women in this study seem to make a business case for accepting difference, which improves organizational performance and competitiveness (Meriläinen et al., 2009; Prasad & Mills, 1997; Tienari et al., 2009). Finally, the postequity view was commented on very superficially. This can be read on two different levels. The first is to look at it from the point of view of the women in this study, who just scratched the surface when challenging some behaviors attributed to women and some to men, such as the behaviors leading to managerial advancement in organizations. However, the second level of analysis is our own reading as scholars endorsing a poststructuralist or constructivist view of the women's narratives. We contend that these women still endorse essentialist views on women and men as well as on the masculine and feminine characteristics attributed to each biological sex. Therefore, they are not challenging the less tangible barriers contributing to the glass ceiling in Mexico. As change agents, women who have struggled to get to the top, and who have the possibility of promoting gender equity in organizations in Mexico, are still prey to some extent to cultural constructions of what equity means. Consequently, one contribution of this article is to examine the three perspectives framework on a contextual basis and in a specific culture to see how equity discourses are translated to the local (Meriläinen et al., 2009). In addition, by adopting this epistemological and methodological perspective, we are able to challenge the limitations of the mainstream literature on the glass ceiling and career development, which is reductionistic in its establishment of essentialisms and its non-allowance for a plurality of voices (Collin & Young, 2000; Young & Collin, 2004).

After discussing these theoretical considerations, we move from the "armchair" feminist theories to "the real world" of practical implications (Meyerson & Kolb, 2000) in order to break through the glass ceiling in Mexico. First, it is interesting to note that the women in this study who did not touch on the postequity perspective (Carrillo, Fuentes, and Blok) work in private industry (for Hewlett-Packard, Omnilife, and Back to Business, respectively), while the ones who did raise the postequity view (Carpinteyro, Clave, and Garcia) either work for a state-controlled organization (Carpinteyro for SEPOMEX, Clave for BMV) or do a great deal of consulting for governmental agencies (Garcia for PRAXIS). What is intriguing is that it seems that women in private industry, in this study, may endorse the business case for diversity as a means to remove the glass ceiling in Mexico. In the short term, this may be the way to start cracking the glass, by first endorsing an instrumental view of why women have to be incorporated in the upper echelons. In endorsing this strategy, organizations will have to provide training and career planning opportunities to women in order to enable them to compete in this men's business world; provide child care to facilitate parenthood when needed; and provide specific training for men, especially those in the "old boys club," to raise awareness of the advantages associated with opening the door to women. On the other hand, the women involved in the public sector can be

approached through affirmative action programs challenging not only the number of women in top positions but also the patriarchal conception of women and men that seems to favor the latter through the use of binary conceptions (Knights & Kerfoot, 2004) pointing to the postequity view, of which women in the public sector are more aware. Nevertheless, more research needs to be done to understand this possible divide in the construction of equal opportunities. Second, in the long term, it is necessary to go beyond the business case for diversity. The focus has to be especially on the nontangible barriers, such as gender-based stereotypes that are culturally and locally situated. Two strategies are suggested here: *programs for the promotion of equality*; and *intervention programs* with change agents. The former can start with the "reflective" aspects of how equality is understood, drawing on the postequity approach, as in the approaches promoted in the European Union (e.g., for women in top positions: Eriksson-Zetterquist & Styhre, 2008) involving politicians, scholars, industry representatives, and women-specific interest groups. The latter strategy is based on intervention with change agents, women in managerial positions, who participate in diverse forums and in media, for example, providing interviews and narratives with regard to their stories. The emphasis here has to be on building awareness that the stories they tell can either reproduce or challenge societal gender-based stereotypes. For example, their narratives, as presented in this article, are "social practices that are constitutive of social context" if they do not challenge the specific assumptions of the social construction of gender, and, therefore, "[they] bear the imprint of dominant cultural meanings and relations of power" (Ely & Meyerson, 2000: 604). An interesting forum through which to build this awareness could be the Mexican Association of Female Managers and Directors (Asociación Mexicana de Mujeres Ejecutivas AMME), along with media representatives.

One methodological contribution of this article is precisely to build this awareness in terms of the role of the written narratives of women managers in Mexico. These stories appeared in various magazines targeting well-educated members of the population, many of whom hold middle and top leadership positions. In general, we add to the body of work that offers alternate ways of producing knowledge from the points of view of the participants studied and their narratives (Boje, 1991; Czarniawska, 1997; Gabriel, 2000). In particular, it contributes to the literature that uses narratives written by managers to understand identity construction (McKenna, 2010; Watson, 2009). The example of the use of magazines is relevant as well as the narratives presented in them. According to Watson and Bargiela-Ciappini (1998), business magazines provide "story boards" for their readers, who search for (identity) cues to make sense of their managerial roles. This process of searching for identity cues has implications for the identity of those managers (Helms Mills, 2003; Helms Mills, 2005). We contend that the narratives of "successful" women managers influence, re-produce, and/or challenge specific constructions of what gender equity means and how it should

be achieved. At the same time, these accounts draw specific identities available for women in management from societal and organizational discourses. In this way, the traditional (i.e., machista and marianista discourses) and global (managerial, diversity, and equality discourses) repertoires compete in the narrations of the women in this study.

REFERENCES

Abbott, A. 2007. Against narrative: A preface to lyrical sociology. *Social Theory,* 25: 67–99.

Acker, J. 1990. Hierarchies, jobs, bodies: A theory of gendered organizations. *Gender and Society,* 4: 139–158.

Acker, J. 1992. Gendering organizational theory. In A. J. Mills & P. Tancred (Eds.), *Gendering organizational analysis:* 248–260. Newbury Park, CA: Sage.

Alvesson, M., & Billing, Y. D. 1997. *Understanding gender and organizations.* London: Sage.

Bennington, A. J., Wagman, G. R., & Stallone, M. N. 2005. Perceptions of a glass ceiling: A cross-cultural analysis of Mexican and American employees. *International Business and Economics Research Journal,* 47(7): 1–7.

Billing, Y. D. 2011. Are women in management victims of the phantom of the male norm? *Gender, Work and Organization,* 18: 298–317.

Blok, L. 2009. Fuera el victimismo. *Mujer Ejecutiva,* July. Mexico, D.F.

Boje, D. M. 1991. The storytelling organization: A study of story performance. *Administrative Science Quarterly,* 36: 106–126.

Butler, J. 1990. *Gender trouble—Feminism and the subversion of identity.* New York: Routledge.

Calás, M. B., & Smircich, L. 1993. Dangerous liaisons: The "feminine-in-management" meets "globalization." *Business Horizons,* 36(2): 71–81.

Calás, M. B., & Smircich, L. 2006. From the "woman's point of view" ten years later: Towards a feminist organization studies. In S. R. Clegg, C. Hardy, T. B. Lawrence, & W. R. Nord (Eds.), *The Sage Handbook of Organization Studies* (2nd ed.): 284–346. Thousand Oaks CA: Sage.

Calás, M. B., Smircich, L., & Bourne, K. A. 2009. Extending the boundaries: Reframing "entrepreneurship as social change" through feminist perspectives. *Academy of Management Review,* 34: 552–569.

Carpinteyro, P. 2008. La mujer debe estar dispuesta a trabajar en igualdad de condiciones: Sepomex. *Milenio,* March 8. Mexico, D.F.

Carrillo, M. T. 2009. La negociadora. *Mujer Ejecutiva,* July. Mexico, D.F.

Clave, C. 2007. Solidarity with the society. *ISTMO,* no. 292, September–October: 36. Mexico, D.F.

Collin, A., & Young, R. A. (Eds.). 2000. *The future of career.* Cambridge: Cambridge University Press.

Craske, N. 2005. Ambiguities and ambivalences in making the nation: Women and politics in 20th-century Mexico. *Feminist Review,* 79: 116–133.

Czarniawska, B. 1997. *Narrating the organization: Dramas of institutional identity.* Chicago: University of Chicago Press.

Czarniawska, B., & Gagliardi, P. (Eds.). 2003. *Narratives we organize by.* Amsterdam: John Benjamins.

Delaunay, M. 2007. Las 50 mujeres mas poderosas. *Expansion,* vol. 977. Mexico City.

Diaz-Guerrero, R. 1975. *Psychology of the Mexican: Culture and personality.* Austin: University of Texas Press.

Ely, R. J., & Meyerson, D. E. 2000. Advancing gender equity in organizations: The challenge and importance of maintaining a gender narrative. *Organization,* 7: 589–608.

Eriksson-Zetterquist, U., & Styhre, A. 2008. Overcoming the glass barriers: Reflection and action in the "Women to the Top" programme. *Gender, Work and Organization,* 15: 133–160.

Fairclough, N. 1992. *Discourse and social change.* Cambridge: Polity Press.

Ferguson, K. 1984. *The feminist case against bureaucracy.* Philadelphia: Temple University Press.

Fernandez-Poncela, A. M. 1995. Participacion Social y Politica de las Mujeres en Mexico: Un Estado de la Cuestion. In A. M. Fernandez-Poncela (Ed.), *Participacion politica: Las mujeres en Mexico al final del milenio:* 23–84. Mexico, D.F.: El Colegio de Mexico.

Foucault, M. 1977. *Discipline and punish: The birth of the prison.* New York: Vintage.

Fuentes, A. 2009. Siempre a ganar. *Mujer Ejecutiva,* July. Mexico, D.F.

Gabriel, Y. 2000. *Storytelling in organizations: Facts, fictions, and fantasies.* New York: Oxford University Press.

Garcia, A. 2007. Escuchar a las mujeres ejecutivas, *ISTMO,* no. 292, September–October: 34. Mexico, D.F.

García, B., & de Oliveira, O. 1997. Motherhood and extradomestic work in urban Mexico. *Bulletin of Latin American Research,* 16: 367–384.

Gherardi, S. 1994. The gender we think, the gender we do in our everyday organizational lives. *Human Relations,* 47: 591–610.

Gutmann, M. C. 2007. *The meanings of macho: Being a man in Mexico City* (10th anniversary ed.). Berkeley: University of California Press.

Harding, S. 1986. *The science question in feminism.* Ithaca, NY: Cornell University Press.

Hearn, J. 2000. On the complexity of feminist intervention in organizations. *Organization,* 7: 609–624.

Hearn, J. 2004. From hegemonic masculinity to the hegemony of men. *Feminist Theory,* 5: 49–72.

Helms Mills, J. 2003. *Making sense of organizational change.* London: Routledge.

Helms Mills, J. 2005. Organizational change and representations of women in a North American utility company. *Gender, Work and Organization,* 12: 242–269.

Kanter, R. M. 1977. *Men and women of the corporation.* New York: Basic Books.

Kärreman, D., & Alvesson, M. 2001. Making newsmakers: Conversational identity at work. *Organization Studies,* 22: 59–89.

Kelan, E. 2009. Gender fatigue: The ideological dilemma of gender neutrality and discrimination in organizations. *Canadian Journal of Administrative Sciences,* 26: 197–210.

Kelson, G. 2000. International labor policies and the North American Free Trade Agreement: Are women getting their fair share? *Journal of International Women's Studies,* 1(2).

Knights, D., & Kerfoot, D. 2004. Between representations and subjectivity: Gender binaries and the politics of organizational transformation. *Gender, Work and Organization,* 11: 430–454.

La Jornada. 2002. 49 aniversario del sufragio femenino en México. Retrieved from http://www.jornada.unam.mx/2002/11/04/articulos/51_sufragio49.htm, August 2011.

Mack, A. 2010. The reality of the working women—Mexico. Retrieved from http://www.jwtintelligence.com/2010/11/image-working-women-mexico/, October 2011.

Martin, J. 2000. Hidden gendered assumptions in mainstream organizational theory and research. *Journal of Management Inquiry,* 9: 207–216.

Martin, J. 2003. Feminist theory and critical theory: Unexplored synergies. In M. Alvesson & H. Willmott (Eds.), *Studying management critically:* 66–91. London: Sage.

Martin, P. Y. 2006. Practising gender at work: Further thoughts on reflexivity. *Gender, Work and Organization,* 13: 254–276.

McKenna, S. 2010. Managerial narratives: A critical dialogical approach to managerial identity. *Qualitative Research in Organizations and Management,* 5: 5–27.

Meriläinen, S., Tienari, J., Katila, S., & Benschop, Y. 2009. Diversity management versus gender equality: The Finnish case. *Canadian Journal of Administrative Sciences,* 26: 230–243.

Meyerson, D. E., & Kolb, D. M. 2000. Moving out of the "armchair": Developing a framework to bridge the gap between feminist theory and practice. *Organization,* 7: 553–571.

Mills, A. J. 1988. Organization, gender and culture. *Organization Studies,* 9: 351–369.

Morrison, A. M., White, R. P., & Van Velsor, E.. 1992. *Breaking the glass ceiling: Can women reach the top of America's largest corporations?* Reading, MA: Addison-Wesley.

Mumby, D. K., & Putnam, L. 1992. The politics of emotion: A feminist reading of bounded rationality. *Academy of Management Review,* 17: 465–486.

Nentwich, J. C. 2006. Changing gender: The discursive construction of equal opportunities. *Gender, Work and Organization,* 13: 499–521.

Oakley, J., G. . 2000. Gender-based barriers to senior management positions: Understanding the scarcity of female CEOs. *Journal of Business Ethics,* 27: 321–334.

Olivas-Luján, M. R., Monserrat, S. I., Ruiz-Gutierrez, J. A., Greenwood, R. A., Madero-Gomez, S., Murphy, E. F. J., & F. Santos, N. M. B. 2009. Values and attitudes towards women in Argentina, Brazil, Colombia, and Mexico. *Employee Relations,* 31: 227–244.

O'Neil, D., Hopkins, M., & Bilimoria, D. 2008. Women's careers at the start of the 21st century: Patterns and paradoxes. *Journal of Business Ethics,* 80: 727–743.

Pablos, T. 1999. *Women in Mexico: A past unveiled*. Austin: University of Texas Press.

Powell, G. N. 1988. *Women and men in management.* Beverly Hills, CA: Sage.

Prasad, A., & Mills, A. J. 1997. From showcase to shadow: Understanding the dilemmas of managing workplace diversity. In P. Prasad, A. J. Mills, M. Elmes, & A. Prasad (Eds.), *Managing the organizational melting pot: Dilemmas of workplace diversity:* 3–30. London: Sage.

Prasad, P., Mills, A. J., Elmes, M., & Prasad, A. (Eds.). 1997. *Managing the organizational melting pot: Dilemmas of workplace diversity.* Thousand Oaks, CA: Sage.

Reissman, C. K. 2008. *Narrative methods for the human sciences.* Thousand Oaks, CA: Sage.

Reskin, B., & Padavic, I. 1994. *Women and men at work.* Thousand Oaks, CA: Pine Forge Press.

Stevens, E. P. 1973. Marianismo: The other face of machismo in Latin America. In A. Pescatello (Ed.), *Female and Male in Latin America:* 85–110. Pittsburgh: University of Pittsburgh Press.

Tienari, J., Holgersson, C., Meriläinen, S., & Höök, P. 2009. Gender, management and market discourse: The case of gender quotas in the Swedish and Finnish media. *Gender, Work and Organization,* 16: 501–521.

Valdes, T., & Gomariz, E. (Eds.). 1995. *Latin American women: Compared figures.* Santiago, Chile: FLACSO.

van den Brink, M., Benschop, Y., & Jansen, W. 2010. Transparency in academic recruitment: A problematic tool for gender equality? *Organization Studies,* 31: 1459–1483.

Watson, T. J. 2009. Narrative, life story and manager identity: A case study in autobiographical identity work. *Human Relations,* 62: 425–452.

Watson, T. J., & Bargiela-Ciappini, F. 1998. Managerial sensemaking and occupational identities in Britain and Italy: The role of management magazines in the process of discursive construction. *Journal of Management Studies,* 35: 285–301.

Weedon, C. 1987. *Feminist practice and poststructural theory.* Oxford: Basil Blackwell.

West, C., & Zimmerman, D. 1987. Doing gender. *Gender and Society,* 1: 125–151.

World Economic Forum. 2010. Corporate gender gap report. Retrieved from https://members.weforum.org/pdf/gendergap/corporate2010.pdf, August, 2011.

Young, R. A., & Collin, A. 2004. Introduction: Constructivism and social constructionism in the career field. *Journal of Vocational Behavior,* 64: 373–388.

Zabludovsky, G. 2001. Women managers and diversity programs in Mexico. *Journal of Management Development,* 20: 354–370.

Direct reprint requests to:

Salvador Barragan
Markin Hall, University of Lethbridge
4401 University Drive
Lethbridge, Alberta, Canada
T1K 3M4
e-mail: salvador.barragan@uleth.ca

New Scholars

POTENTIALLY LETHAL BYTES: WHY E-DISCOVERY IS CRUCIAL FOR EMPLOYEES IN ARBITRATION

PETER WHITEHEAD

DANIEL ESTRADA

STAR SWIFT

Grand Valley State University, Grand Rapids, Michigan

ABSTRACT

More and more, employers are relying on mandatory arbitration clauses in employment contracts to save them the time, money, and public image they might risk in traditional litigation. In this tight economy, many employees are assenting to these mandatory arbitration clauses to land a job, but submitting to arbitration is not the same as waiving one's constitutional right to due process of the law. Despite enjoying the concession of mandatory arbitration, employers are often reluctant to submit to electronic discovery in arbitration, claiming either that the digital data no longer exist, or that it would be too costly to comply with the discovery requests of the employee. This article illustrates that most of the evidence necessary to provide the employee with a full and fair hearing at arbitration is now created and stored in digital form. Therefore, arbitrators must require reasonable discovery as a fundamental provision of due process, because so much of this critical evidence is likely to exist solely in electronically stored information, which typically exists, conveniently and exclusively, within the control of employers only. To better inform employees of their e-discovery rights, the authors have surveyed and summarized the developing legal authority regarding e-discovery, and they have provided three actual, nonunion arbitrations to illustrate the electronic information that may be requested prior to an arbitration hearing.

279

DISCOVERY AND E-DISCOVERY

When parties have a legal dispute that they are unable to work out on their own, the United States court system provides a public forum staffed by neutral judges to help facilitate resolution in accordance with the law through the utilization of the trial process. After the pleadings are filed, the parties are permitted to conduct discovery. *Discovery* is the legal term for efforts taken by the parties to search for, collect, and analyze as much evidence as possible to help "prove" their cases in court. The discovery stage of litigation typically involves the parties exchanging written requests for interviews with witnesses (called depositions), the production of documents, physical evidence, or answers to questions (called interrogatories), and rights to the examination of the scene where the dispute arose. The court rules governing discovery generally require both parties to provide access to any evidence that is relevant, reliable, and necessary to resolve the dispute before the court. In civil litigation, the plaintiff must present sufficient evidence of his or her case at trial, or else the complaint may be dismissed and his case will not be heard by the court. Discovery is also an important component of alternative dispute resolution systems such as mediation and arbitration, because the plaintiff still must present sufficient evidence to prove that a plausible claim for relief exists.

Over the last 10 years, the discovery process has been exponentially broadened with the development of electronically stored information (ESI). This new frontier for evidence, referred to as *e-discovery*, has substantially increased the complexity and expense of the discovery process in litigation, and it raises an even more vexing problem when considered within the context of alternative dispute resolution (ADR) processes, because it compromises the expedience and inexpensiveness that are the hallmarks of ADR.

EMPLOYERS MUST BEGIN TO COMPLY WITH E-DISCOVERY IN ARBITRATION, TOO

In the employment law field, employees must be keenly aware of the importance of identifying potentially relevant ESI and insisting upon e-discovery as a matter of right when engaging in a legal dispute with management. Nearly all of the information used by an employer today is created and stored electronically, so why do employers continue to get away with ignoring e-discovery when arbitrating employment disputes?

The rapid development of information technology has vastly changed the way we create and use information. Courts and arbitrators have been charged with understanding and accommodating for the effects of this digital revolution, particularly in the heat of courtroom litigation or hotly contested arbitration hearings (Sherwyn & Tracey, 1997). Until recently, a simple (almost standardized) list of discovery requests had been used to collect the lion's share of relevant information in most matters. Many lawyers still use boilerplate language

in their requests. But today, with the trending preference for ESI over paper document storage, a new form of discovery is demanded. We are now forced to consider the whereabouts of evidence that may exist only in bits and bytes.

Unfortunately, our legal and arbitration system has mostly chosen to ignore the unique challenges that e-discovery creates. In employment disputes, employees are often contractually required to utilize arbitration as a condition of their employment. Arbitrators, employers, and their legal counsel, who are usually at best ill-informed about the e-discovery process, exploit this ignorance to avoid exposing their own; and claimants' access to critical evidence is denied as a matter of convenience. Arbitrators consistently claim to permit reasonable discovery to ensure accurate dispute resolution, yet great confusion and ignorance remain about what "reasonable discovery" is in regard to e-discovery. The result is often an ethically unsound process that results in unnecessary disputes, outrageous costs, and questionable jurisprudence.

Employers, their corporate lawyers, judges, and even arbitrators basically deny due process to claimants when they argue that expanding discovery in arbitration to include ESI unnecessarily complicates and protracts proceedings. While correct about the additional complexity, they are wrong to argue that permitting e-discovery in arbitration is unnecessary. The bottom line is undeniable: e-discovery is not a matter of choice. Our legal system cannot stand for justice without considering all sources of potentially relevant evidence, and in today's connected world, many of those sources are undoubtedly digital.

In this article, we will describe the rules governing e-discovery, explain employers' obligations to properly manage and preserve such data when notified of potential litigation, and show how claimants can most effectively preserve for their cases the abundant fruits of e-discovery. We will also explain the existing guideposts for arbitration and illustrate why employees and their legal counsel must educate themselves about the myriad of sources and forms of ESI. For the sake of brevity, we will focus on mandatory arbitration of nonunion employment disputes, because these disputes do not involve collective bargaining. The collective bargaining process provides a wide range of policies and guidelines for dispute resolution, dictated by particular circumstances, regional ideals, and industry norms (Sherwyn & Tracey, 2001). Yet those involved in collective bargaining grievance arbitration may find this article of interest, because their cases can benefit from important data in the hands of an employer who is refusing a union's reasonable request simply because the information requested is in electronic form.

THE NEW REQUIREMENTS OF E-DISCOVERY

Federal Rules

On December 1, 2006, amendments to the Federal Rules of Civil Procedure (FRCP) regarding e-discovery came into effect. The amendments dictate that

- ESI is now part of the list of required initial disclosures (FRCP 16(b)(5)).
- Parties must devote attention to e-discovery issues early in the discovery process, during an initial "meet and confer" discussion (FRCP 26(a)(1)(B)).
- The requesting party is authorized to specify the form in which ESI shall be produced (for example, in paper form or in some electronic format) (FRCP 34(b)).
- The producing party need not provide discovery of ESI that is not reasonably accessible unless the court orders such discovery for good cause (FRCP 26(b)(2)(B)), or the requesting party can show "[that] its need for the discovery outweighs the burdens and costs of locating, retrieving and producing the information" (committee note to FRCP 26(b)(2)(B)). The court will then make a determination based on the FRCP 26(b)(2)(C) proportionality standard and the widely recognized factors in *Zubulake v. UBS Warburg* (2003).
- A "safe harbor" exists to protect the parties, which states that "Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system" (FRCP 37(e)).
- "Good-faith" operation requires the producing party to halt the destruction or modification of potentially responsive ESI (known as implementing "a litigation hold") when litigation becomes reasonably foreseeable (committee note to FRCP 37). Possible sanctions for less-than-good-faith preservation or outright spoliation of evidence include delivery of adverse inference jury instructions, assessment of costs, and the ultimate sanction: judgment for the requesting party, as was held in the cases of *Ramirez-Baker v. Beazer Homes, Inc.* (2008) and *West v. Goodyear Tire & Rubber Co.* (1999). The new federal rules regarding e-discovery are also collected and neatly summarized as "the Sedona Principles" (Sedona Conference, 2003).

Please note that since undergoing these major changes, there have been additional, relatively minor amendments to the FRCP and the Federal Rules of Evidence (FRE). For the sake of brevity, we will not elaborate on those changes here.

State Rules

While the federal rules are not binding in state courts, they are typically persuasive, especially on developing fronts of procedure where states have not yet expanded their own rules. In fact, many states have followed the federal rules very closely in updating their own court rules. For example, the e-discovery-related language of Michigan Court Rules 2.302, 2.310, 2.313, 2.401, and 2.506 (as enacted on January 1, 2009) is nearly identical to that of the FRCP, and this treatment is fairly typical among the many state judiciaries (state rules and statutes are available from Kroll Ontrack, 2011).

HOW DOES ARBITRATION HANDLE
E-DISCOVERY?

We spoke to several employment attorneys and arbitrators, all of whom preferred to remain anonymous, about the use of e-discovery in employment arbitration. They all said basically the same thing (note that one of the authors of this article was in charge of selecting and appointing arbitrators for the State of Michigan for 12 years):

> We rarely use or even mention e-discovery.

> It is not an issue in our cases. We avoid it completely.

> You know how it goes. You certainly have tried enough arbitrations to know the game. We use a few witnesses, the discipline chain, and any notes we may have from an investigatory interview. Nothing has really changed.

The potential for seemingly limitless e-discovery in arbitration apparently threatens to eliminate the classic benefits of alternative dispute resolution (ADR), including lower costs, a shorter timeline, and more privacy. Certain questions logically follow: *Must arbitration include e-discovery? Is it possible to sift out the necessary and relevant evidence from a sea of ESI in a time- and cost-efficient manner?* The answer to both is almost certainly "yes."

As we evolve into an increasingly paperless society, whether information relevant to a legal dispute can be collected, searched, and produced depends on how well prepared the parties are to address and conduct e-discovery in an effective and efficient manner so that due process can be adequately provided to both parties (Estrada, 2009). In the recent past, some defendants have managed to avoid the production of damaging ESI on the grounds that the time and expense involved in such efforts would undercut the very efficiency afforded by arbitration in the first place. However, while FRCP 26(b)(2)(C) provides that the producing party need not provide discovery of ESI that "is not reasonably accessible," plaintiffs can and should insist on such production (using the *Zubulake* proportionality standard for a good-faith request) when it is necessary to present their cases and support their claims for relief. Defendant-employers should not be permitted to avoid accountability for their actions simply because they induced employees to sign their agreement to an arbitration clause, which already primarily benefited the employer by saving it the time, expense, and publicity of a public trial examining its employment practices. When compared with the likely costs of litigation (if the plaintiff was permitted to file his claim in court at the outset), accessing and producing electronic data stored on a computer, server, or back-up tape would almost certainly be inexpensive, and the data would be considered "reasonably accessible."

Arbitration Guideposts

The Federal Arbitration Act (FAA) of 1925, 9 USC 1 (and its subsequent case law) generally provides that parties are free to fashion their own discovery rules, so long as the following due process standards are respected:

1. There must be adequate discovery. Even the FRCP do not require discovery of *all potentially relevant information*. Good faith and reasonableness have governed the application of the proportionality test outlined in Rule 26(b)(2) (Ragan & Copple, 2008). The Revised Uniform Arbitration Act (RUAA) of 2000 states that arbitrators "may permit such discovery as [they] decide . . . is appropriate in the circumstances, taking into account the needs of the parties . . . and the desirability of making the proceeding fair, expeditious and cost effective" (RUAA § 17(c)). Arbitrators have long had wide discretion in determining how much discovery is adequate in their proceedings, and reviewing courts very rarely disturb the arbitrator's decisions (Bedikian, 2006). However, if the parties can agree prior to their hearing on the extent of discovery, particularly if it is according to a recognized standard for arbitration, the arbitrator may defer to the parties' agreement.

2. "Both parties shall be able to present their case . . . with rules and procedures that are fair in form and provide due process." This standard was developed in *Floss v. Ryan's Family Steakhouses, Inc.* (2000). Due process is a constitutional guarantee to citizens that provides the assurance that all levels of American government must operate within the law and provide fair procedures (Strauss, 2011). Considering especially cases where there is a disparity in resources and/or control of relevant evidence, as in the mandatory arbitration of a nonunion employment dispute, the disadvantaged party (often the employee plaintiff) cannot be expected to put up even a prima facie showing of his or her claim or defense without adequate access to e-discovery (Swift, Jones-Rikkers, & Sanford, 2004). Therefore, as decided in *Ramirez-Baker v. Beazer Homes, Inc*. (2008), if much of the employee's relevant evidence (e-documents, e-mail, voicemail, instant messaging logs, text messages, etc.) is located on employer-controlled information systems, the arbitrator will have to allow the employee some e-discovery in order to provide due process. We will discuss this issue in more detail below.

3. Interestingly, due to concerns about the inherent disparity in bargaining power between the parties, Congress is presently considering a bill to be called the Arbitration Fairness Act, which would prohibit employers from insisting upon the arbitration of consumer disputes and employment litigation (Olson, 2011).

4. The arbitrator shall have the authority to provide substantially the same remedies as a judicial forum, including attorney fees (*Circuit City, Inc., v.*

Adams, 2002). Presumably, this precedent reserves for the arbitrator the power to sanction recalcitrant parties who fail to comply with any facet of the arbitration process, including e-discovery. Sanctions as severe as adverse inferences have been upheld by reviewing courts (Mintz, 2009).

The trend appears to be toward permitting broader e-discovery rights in arbitration. Still, it is highly advisable that employees and their attorneys carefully craft language providing for e-discovery in any arbitration clause that they might sign (Swift & Chester, 2006). If the employment contract is silent as to the scope of discovery in arbitration, then plaintiffs should insist upon negotiating the scope, form, and procedures for e-discovery with the employer's counsel prior to meeting the arbitrator, to ensure that this important right is not considered waived by such contractual silence (Bennett, 2009).

ARBITRATION IN NONUNION EMPLOYMENT CASES

The three cases that follow are actual nonunion employment cases that were fully arbitrated and may be found on Grand Valley State University's Arbitration Web site at http://www.gvsu.edu/arbitrations/

Scenario 1: Sleeping on the Job (*Archer 2*)

A supervisor asked a store detective to follow and monitor an employee during her shift (from 10:00 pm to 6:00 am) to determine if she was sleeping while she was supposed to be doing her job. Later, at the employee's arbitration hearing on her charge of wrongful termination, the investigator explained how the employee had been observed shopping for herself, purchasing merchandise and taking it to her car, taking long bathroom breaks, making personal calls from the breakroom, and even resting her head in the store's learning center for a period, all while on the clock. The terminated employee did not dispute these facts.

The primary evidence used in the arbitration included testimony by witnesses including the store detective, the personnel records of the terminated employee (and of other employees who were terminated for sleeping), the arbitration manual for nonunion employees, and the employer's other rules and policies.

The arbitrator weighed the testimony of the witnesses and upheld the employee's discharge. He also denied the employee's discrimination claim because he found there was slim evidence to prove such motivations.

The same case arbitrated today would very likely involve a myriad of other sources of evidence. In a retail environment, digital security cameras monitor the store, electronic key cards control access to doors, electronic records are kept to track employee productivity and inventory levels, and much communication is generated and preserved by cell phones, e-mails, and text messaging providers. All of this information should be available to the arbitrator in a case like

this, even if its collection and review is expensive for the employer, because an arbitrator's decision will be more just where he or she has as much probative, objective evidence available.

For instance, digital camera data might reveal that many employees at a 24-hour retail store took time to nap at three or four in the morning when the store was virtually empty. A video clip might even show a supervisor or two walking past a sleeping employee and the supervisor ignoring the transgression. E-mails might reveal that a white supervisor had little tolerance for the mistakes and activities of nonwhite employees and made inappropriate comments on a regular basis in e-mails. Text messages might indicate that only certain employees were targeted for discipline and monitoring while others were never monitored. Such disparate treatment of employees, while not necessarily exonerating the employee who was fired for sleeping, could certainly be considered relevant to an arbitrator who is carefully weighing the reasonableness of an employer's disciplinary policy.

Scenario 2: Drag Racing and Race Discrimination (*Beckman 2*)

A store manager went outside with some of his employees during a break to drag race. The manager employee was later terminated for "poor judgment." The employee claimed during arbitration that he was not discharged for poor judgment but because he is African American, stating that the employer had exhibited "a pattern and practice of discrimination."

The evidence used at the arbitration was the testimony of several witnesses, the employee handbook, the employee's personnel records, and statistical evidence concerning the employer's hiring of nonwhite employees. After a hearing, the arbitrator found that the employer had just cause to terminate the employee because of his poor judgment in a supervisory role. The arbitrator further asserted that even though the employee was on break, he was a salaried employee who engaged in a dangerous activity during his scheduled work hours. The arbitrator also found no evidence of race discrimination.

In addition to the sources of evidence already mentioned previously, arbitrated today, this case might have also included electronic evidence from human resources management software (used to provide hiring statistics), traffic camera video footage that might show many white supervisors engaged in similar behavior, cell phone photos demonstrating that drag racing was a nightly event of which all store employees were aware, and data from GPS devices (including navigation systems, cell phones, and other wireless devices) inside vehicles that would pinpoint exactly which vehicles were used in racing. With technological advances occurring almost daily, the potential scope of discoverable information in the exclusive possession of the employer is perpetually expanding, and

claimants will have to know what to ask for, because the custodians of such ESI are not likely to produce it voluntarily.

Scenario 3: Employee Theft (*Grissom 4*)

In this case, an employee who had worked for the employer for 31 years was terminated for stealing a pack of cigarettes. The employee had no prior disciplinary action in her employment record. On the day in question, she was shopping in the store and was not working. She claimed she was afraid the cigarettes would fall out of the large shopping cart so she put them in her purse with the intention of pulling them out when she went to the register. The store detectives claimed that when she was apprehended she told conflicting stories that made it clear she intended to steal the cigarettes. The employee's daughter testified that her mother was taking care of her elderly parents in addition to working and was therefore under stress. The evidence at the arbitration hearing included the employee handbook, the testimony of the employer's witnesses, and the testimony of the employee and her daughter. There was also a video of the employee that simply showed her in the store on the day of the alleged theft. The employer's arbitration rules and procedures and the employee's personnel file were also introduced into evidence.

The arbitrator based his decision primarily on credibility when he decided that the former-employee witness was not credible, upholding the discharge. If this case were tried today, the employee would add at least the following requests to her discovery list to the employer prior to the arbitration:

- *All e-mail and text (SMS) messages in your possession:*
  - *regarding the grievant and any disciplinary or productivity problems for the last [reachback length of time];*
  - *sent from the grievant to her superiors regarding work-related problems for the last two years; and*
  - *regarding the grievant that had been sent by supervisors, coworkers, or others to the grievant during the last two years.*
- *All security video footage for the date of the alleged theft by the grievant.* (In this case there was was no visual, impartial proof that a theft occurred).
- *All radio-frequency identification (RFID) tag data that are available for the date of the alleged theft by the grievant.*
- *All electronic keycard access data that are available for the date of the alleged theft by the grievant.*

As an experienced litigator knows, supervisors are often much more candid about their true feelings when writing a quick e-mail or text message. These messages may show the true motivations of a supervisor, which often have little to do with the disciplinary action in question, or which may at least call into question the supervisor's moral and ethical character.

MANAGING E-DISCOVERY AND PRESERVING
THE ADVANTAGES OF ARBITRATION

Arbitration has become a popular alternative to litigation because its relaxed rules of procedure and evidence save substantial time and money for all involved. While legal disputes can be resolved privately and less expensively using arbitration, an important fact remains: in today's digital age, the majority of information about any legal matter is likely to be stored electronically. Therefore, as zealous custodians of their information, employers have an inherent advantage because they possess almost all of the relevant evidence in any employment dispute. Employees and their counsel must recognize this fact and be especially diligent and adamant about demanding access to such evidence, because failure to do so can reduce a meritorious case for relief to an unfounded allegation. Arbitrators who ignore ESI are ignoring due process and they take the risk of being overturned in a court of law (*Ramirez-Baker*, 2008), and employers who fail to maintain adequate electronic record-keeping procedures may face contempt or spoliation claims when they cannot produce ESI to which they at one time had access; employee-plaintiffs should tacitly remind employers and arbitrators of these risks from the beginning of the arbitration.

Several recent developments in case law have further broadened the realm of potentially discoverable ESI. While reversing and remanding the decision of the lower court in *City of Ontario v. Quon* (2010), the United States Supreme Court held that an officer's Fourth Amendment rights were not violated when his employer discharged him for improper use of an employer-provided mobile device, when it was discovered that he had been sending sexually explicit text messages to his mistress. The court held that as long as the monitoring of employee activities is reasonably conducted for a legitimate purpose, employees are not entitled to complete privacy in personal activities or communications conducted on an employer-provided device (*City of Ontario v. Quon*, 2010). This decision is not in the least surprising, given that in *People v. Kwame M. Kilpatrick* (2008), the State of Michigan famously relied upon illicit text-messaging evidence in prosecuting the former mayor of Detroit (Saulny & Bulkny, 2008) for a litany of illegal abuses of political power. The National Labor Relations Board successfully contested the discharge of an employee who posted critical comments about her supervisor on Facebook, arguing that the use of such statements—made outside of the workplace to third parties, and not dispositively false or defamatory—is an unlawful prohibition on the employee's right of free speech. The parties settled the case out of court when the employer agreed to broaden its restrictions on employee discourse in public media forums (Greenhouse, 2010). If such social networking activities are ruled to be discoverable, the amount of potentially discoverable ESI in nearly every case multiplies significantly, given the pervasiveness of such activity on mobile networks and the Internet today.

So it appears inevitable that e-discovery must be permitted in order to ensure due process in arbitration. The challenge, then, lies in providing reasonable e-discovery during arbitration without sacrificing the expedience and cost-containment that have always been its hallmarks. As our examples illustrate, organizations have many sources of potentially relevant ESI, and producing data from these sources can be expensive and complex. Unfortunately, companies are usually ill-prepared to preserve and produce ESI in response to a legal dispute, but in cases such as *Textron Fin. Corp. v. Eddy's Trailer Sales, Inc.* (2009), courts have consistently held that the high cost of e-discovery due to poor records management practices does not excuse employers from their preservation and production obligations.

Employees and their counsel have to be ready to respectfully yet assertively inform and guide the arbitrator about the proper scope of discovery. Losing access to critical ESI-evidence could fatally wound even the strongest claim; therefore, it may be a minimum standard of professional competence for an employee-plaintiff's attorney to be aware of the ever-broadening range of e-discovery prevailing even in arbitration today (Wang, 2008). Employees should also adhere to a few simple principles to preserve their e-discovery rights:

- **Identify and familiarize themselves with their employer's employment-dispute resolution protocol.** Ever since the Supreme Court mandated that employees submit to arbitration when they had agreed to do so in their employment contract, employers have been including mandatory arbitration clauses for any employment-related disputes as a matter of standard practice, and have had them upheld (*Morrison v. Circuit City Stores, Inc.*, 2003). If the employee has signed such an agreement as a condition of employment or otherwise, then it will be enforced (unless it is grossly unconscionable). If no such clause exists, then the employee can file his or her claim in court, where the federal rules will permit broad e-discovery.
- **Locate and document potential sources of ESI prior to asserting a claim.** While still employed or shortly after leaving, employees must pay close attention to the electronic data records systems in use by their employer. The preceding list of discovery requests describes many potential sources to look for, but the more thorough and specific the requests for e-discovery, the better. Consider the following common sources of ESI in the workplace: electronic word processing documents or spreadsheets, e-mail messages, text messages, digitally stored photos and videos, electronic keycard logs, computer and company network access logs, GPS-tracking data from cell phones and other mobile devices, radio frequency identification data (RFID) tracking logs (which may be embedded in inventory, equipment, assets, etc.), and data from specialty software applications, such as a time clock, personnel management system, customer relationship management (CRM) tool, Internet and intranet

sites, etc. Employees should also ask whether the employer has data retention obligations pursuant to various local, state, and federal laws (for example, Federal Trade Commission (FTC) "Red Flag" rules, Health Insurance Portability and Accountability Act (HIPAA), Gramm–Leach–Bliley Act (GLB), Sarbanes-Oxley, etc.) because this evidence is obtainable from the employer or by Freedom of Information Act (FOIA) request. They should ask coworkers for more sources.

- **Issue a litigation-hold letter identifying discoverable ESI to the employer as early as possible.** FRCP 37(e) requires the producing party to halt the destruction or modification of potentially responsive ESI (known as a "litigation hold") when litigation becomes reasonably foreseeable (committee note to FRCP 37). Possible sanctions for less-than-good-faith preservation or outright spoliation of evidence include an adverse inference jury instruction, assessment of costs, and the ultimate sanction: judgment for the requesting party, as was held in the cases of *Ramirez-Baker v. Beazer Homes, Inc.* (2008) and *West v. Goodyear Tire & Rubber Co.* (1999). Employees should identify as many discoverable sources as possible in a litigation-hold letter to prevent normal-course destruction or deletion prior to discovery.

- **Seek a collaborative agreement regarding the reasonable scope of discovery prior to the first hearing.** Parties must work together to identify where relevant materials reside, what constitutes a reasonable scope of discovery, and how ESI will be searched and produced. Employees and their counsel cannot rest on this point if ESI is critical to the employee's case. Electronic evidence is not the same as paper, and the traditional discovery paradigm is grossly ineffective when dealing with ESI. By nature, electronic evidence is much more fickle and complex, so it requires a different perspective. To ensure an effective strategy, employees and their counsel should find someone who is qualified to translate technical issues into practical advice. An attorney lacking a strong IT background is not the right person for this job. If employees cannot afford to hire an IT consultant or e-forensics expert, they should consider asking the arbitrator to appoint a special master to provide a neutral resource to help clarify disputed IT terminology or other technical issues (Scheindlin & Redgrave, 2008). Finally, they should document all communications with the opposing party to show good-faith efforts.

- **Do not surrender access to discovery easily.** Employees should insist upon the plaintiff's right to adequate discovery as a matter of due process, and preserve an objection (for the record, otherwise informally) if requested discovery is denied. Employers will often claim that requested evidence is "not reasonably accessible," but employees should be prepared for this objection with compelling "good cause" evidence showing that the important need for the evidence outweighs the employer's burden of production under the aforementioned *Zubulake* proportionality factors.

SUMMARY

As arbitrators become more aware of the prevalence of ESI, they will begin to expect that certain minimum measures will have been taken by the custodians of such information. As more and more arbitration awards become available for review, it will become clearer just what "adequate discovery" in arbitration means with respect to e-discovery, and prospective litigants will be able to adopt new practices accordingly. Now more than ever, appellate judges, arbitrators, attorneys, and litigants share equal responsibility for making e-discovery reasonable and productive. Many large corporate employers and their counsel have exploited the simplicity and secrecy of mandatory arbitration to avoid exposure to full-blown public trials with broad and extensive discovery, but employees and their counsel can expose this covert subversion of justice by insisting on broad access to ESI as a matter of due process even in arbitration. The time has come for all employers and arbitrators to stop feigning ignorance to avoid e-discovery and begin to restore to everybody the constitutional right of due process.

REFERENCES

Bedikian, M. 2006. State of the law in ADR. Retrieved from http://www.michbar.org/publications/pdfs/stateoflaw2006_adr.pdf, January 2011.

Bennett, S. C. 2009. E-discovery issues: What parties and their counsel need to know in anticipation of and during arbitration. *Dispute Resolution Journal,* 64(1): 20–28.

Circuit City, Inc., v. Adams. 2002. 279 F3d 889.

City of Ontario v. Quon. 2010. 130 S.Ct. 2619.

Estrada, D. C. 2009. 2009 E-discovery reference guide. Retrieved from http://www.dcestrada.com/ediscovery-guide.html, January 2011.

Floss v. Ryan's Family Steakhouses, Inc. 2000. 211 F 3d 306.

Greenhouse, S. 2010. Company accused of firing over Facebook post. Retrieved from http://www.nytimes.com/2010/11/09/business/09facebook.html, January 2011.

Kroll Ontrack. 2011. Resource library: State rules and statutes. Retrieved from http://www.krollontrack.com/resource-library/rules-and-statutes/, May 2011.

Mintz, J. 2009. Electronic evidence firm grilled over absent memos. Retrieved from http://www.gvsu.edu/cms3/assets/2D085406-FC80-AE2E-7233BDF30DCE3642/e-discovery/employment_case_and_e_discovery.pdf, January 2011.

Morrison v. Circuit City Stores, Inc. 2003. 317 F. 3d 646.

Olson, G. C. 2011. Arbitration Fairness Act of 2011 would protect rights in employment and consumer settings. Retrieved from http://www.martinandjones.com/arbitration-fairness-act-of-2011, August 2011.

People v. Kwame M. Kilpatrick. 2008. 753 NW 2d 631.

Ragan, C., & Copple, R. 2008. International arbitration can thrive despite e-discovery's challenges. Retrieved from http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1208774508556, January 2011.

Ramirez-Baker v. Beazer Homes, Inc., et al. 2008. 636 F. Supp. 2d 1008.

Saulny, S., & Bulkny, N. 2008. Detroit's mayor will leave office and go to jail. Retrieved from http://www.nytimes.com/2008/09/05/us/05detroit.html/, January 2011.

Scheindlin, S. A., & Redgrave, J. M. 2008. Special masters and e-discovery: The Intersection of two recent revisions to the Federal Rules of Civil Procedure. *Cardozo Law Review,* 30: 347–405.

Sedona Conference. 2003. The Sedona Principles. Retrieved from http://www.thesedona conference.org/dltForm?did=SedonaPrinciples200303.pdf, November 2011.

Sherwyn, D., & Tracey, J. B. 2001. Mandatory arbitration of employment disputes: Implications for policy and practice. *Cornell Hotel and Restaurant Administration Quarterly,* 42-5:60-71.

Strauss, P. 2011. Essay on due process. Retrieved from http://www.law.cornell.edu/wex/ due_process, August 2011.

Swift, M. S., & Chester, T. J. 2006. Museum personnel practices and the use of arbitration. *Art and Museum Law Journal,* 1: 145–156.

Swift, M. S., Jones-Rikkers, C., & Sanford, J. 2004. Legal and procedural strategies for employees utilizing arbitration for statutory disputes. *Employee Responsibilities and Rights Journal,* 16: 37–46.

Textron Fin. Corp. v. Eddy's Trailer Sales, Inc. 2009. U.S. Dist. LEXIS 60065.

Wang, Z. 2008. Ethics and electronic discovery: New medium, same problems. *Defense Counsel Journal,* 75: 328–345.

West v. Goodyear Tire & Rubber Co. 1999. 168 F3d 776, 779.

Zubulake v. UBS Warburg, LLC. 2003. 217 FRD 309.

Direct reprint requests to:

Peter M. Whitehead
Grand Valley State University
370C DeVos Center
401 Fulton Street West
Grand Rapids, MI 49504
e-mail: whitehep@gvsu.edu

INTRODUCTION TO THE SPECIAL ISSUE: LABOR IN THE GLOBAL SOUTH— A SEARCH FOR SOLUTIONS

ABIGAIL COOKE

TAEKYOON LIM

PETER NORLANDER

ELENA SHIH

CHRIS TILLY

University of California, Los Angeles

The articles included in this special issue of the *Journal of Workplace Rights* were originally presented on May 27 and 28, 2011, at the University of California, Los Angeles (UCLA), as part of the UCLA Institute for Research on Labor and Employment conference "Labor in the Global South: A Search for Solutions." We chose to organize the conference and guest-edit this journal issue because we believe the subject is a critically important and emerging area for scholarly inquiry. Forty years ago, discussions of the global South focused largely on agriculture, but changes in the organization of work, including the incorporation of large parts of the developing world into global supply chains, have created a large and important laboring class in the global South, working in all sectors. Amidst growing urbanization and rising average standards of living, the lives of workers in the global South are now more connected than ever before to the lives of workers in the global North. But despite the growing connections between North and South, growing specialization within regions has remade and sharpened the international division of labor while the extremes of global inequality have also been increasing.

We believe that the papers presented at the conference and re-presented as articles in this volume represent a significant contribution to this growing discussion. With coverage of developments in Asia, Latin America, Africa, and North America, these articles form an outstanding collection of recent research from around the world by emerging scholars engaging in discussions of critical contemporary issues such as globalization, inequality, neoliberalization, development, and labor rights. When we read these articles as a collection, despite their diverse settings and subjects, several important themes emerge: informalization of work, the changing roles of the state, community as a key shaper of labor struggles, and new organizational forms. Below we elaborate on each of these themes separately, though the connections between them will also be immediately apparent.

INFORMALIZATION

As the neoliberalizing world economy has intensified the instability of labor markets, the informalization of labor has risen as one of the major social and economic issues across the world (see Bacchetta, Ernst, & Bustamante, 2009; Guha-Khasnobis & Kanbur, 2006; Marcelli, Williams, & Joassart, 2010; Pfau-Effinger, Flaquer, & Jensen, 2009), and this shift is reflected in the articles in this volume. Informal labor accounts for an increasing proportion of the labor force, yet workers in the informal economy are still left without proper employment security or workers' compensation in many cases and suffer serious social inequalities (Maiti & Sen, 2010; Muntaner et al., 2010). Among the articles in this volume, three studies, one each from Asia, South America, and Africa, present particular opportunities to understand the possibilities for informal worker resistance, alliance with formal workers, and unionization.

In the global South, where the informal economy has traditionally been a large part of the national economies, its expansion is particularly significant and takes varied forms. Su (2011) presents a striking case of labor informalization at Foxconn, the world's largest electronic component supplier, in China. Based on interviews with the workers, Su finds that many of the employees at Foxconn are actually interns from local technical colleges. The dual commodification of labor and education by the manufacturer of some of the most popular electronics goods sold today has led to cases of suicide and widespread reports of stress, loneliness, and depression. Su shows how labor informalization in deepening global commodity chains negatively affects the lives of teenage informal workers, and describes worker protests to effect change at Foxconn.

In the face of deteriorating labor formalization, informal workers have recently begun to organize themselves in coalitions with formal workers, since informal workers on their own often do not have an adequate capacity for mobilizing and voicing their concerns as a substantial social force. Elbert (2011) presents the example of an informal workers' movement in Argentina, where solidarity between informal and formal workers successfully improved the

status of the former. Elbert's research suggests potential for informal workers' unionization and their successful mobilization against the neoliberalization of labor markets. At the same time, he also indicates the significance of formal organized labor as proactive promoters or substantial supporters of informal workers' struggle for status enhancement.

Notwithstanding some positive cases of informal workers' mobilization, the prospects for cooperation between formal and informal workers do not yet allow for unbridled optimism. Many attempts to promote workers' solidarity have been unsuccessful, due to the conflicting interests of formal workers and informal workers. Chinguno (2011) examines such attempts to construct formal-informal solidarity in Southern Africa. While formal workers in Southern Africa have acknowledged a moral need for workers' solidarity, they have only half-heartedly put the idea into practice. This uncertainty about solidarity between formal and informal workers draws attention to the importance of building strong informal workers' organizations as independent social forces.

STATE

The neoliberalization of global labor markets and corresponding acts of local resistance and global solidarity raise the question of the role of the state in perpetuating labor inequality in the global South. Deregulation has weakened the willingness and ability of the state to create solutions that redistribute resources and support worker voices. Power has shifted from the individual nation-state toward transnational governance institutions, most notably, the United Nations, the International Labor Organization, and multinational finance institutions, like the International Monetary Fund and World Bank (Conca, 2005; Kay, 2011; Keck & Sikkink, 1998; Seidman, 2009; Tarrow, 2005). Yet the state is still an important actor. Seidman's (2011) contribution to this volume directs our attention to the shift in labor scholarship away from a central orientation and toward democratization, state policy, and law. Seidman notes that discussions of political power have been replaced by research on the dynamics within labor movements, and reminds young scholars that research addressing state power and responsibility has always been most helpful to labor activists on the ground.

Reading cases in this collection from across the global South, we are struck by the tense and ambivalent relationship between the state and workers. In many cases, the state is not a strong advocate and partner for labor, but also it is not always a clear foe. Certainly, this collection makes clear that the state is not irrelevant for labor today. Rather, it remains a key force in shaping working conditions—whether actively or through neglect—and has huge potential for creating and supporting solutions to many of the challenges facing workers today. One challenge that will remain for scholars and labor activists is how to assess shared lessons about solutions when dealing with a range of regime contexts and opportunities for worker power and labor activism.

In this collection, we see examples of the complicated role the state plays in different situations. Two examples from India suggest that the state can dampen or prevent labor organizing. McCallum (2011) illustrates the influence of the state in the case of a unionization drive in two different Indian cities, Bangalore and Kolkata, showing that unions in Kolkata are much more embedded within the state and thus de-emphasize organizing. Far outside these huge cities, it is the government of India itself, through the Border Roads Organization, which acts as the primary offender against worker rights (Demenge, 2011). This is a particularly cruel irony, since the rhetoric of providing development assistance with the road itself, and the employment generated in building it, contributes to the urgency of the project. This urgency helps perpetuate dangerous working conditions and low compensation, even while workers are forbidden to organize.

Parreñas' (2011) contribution to this issue shows how even the most pro-labor state policies can have unintended consequences. In this case, the watershed United States Trafficking and Violence Protection Act, along with the strategies of divergent movement actors and their moral attitudes, subject Filipina migrant workers to increased scrutiny, inadvertently enhance the precariousness of their situation, and decrease opportunities for migration.

Though there are examples of the state failing workers, we also see clear examples of alternative movements arising and workers challenging and remaking the state. Shorette (2011) describes the efforts of activists to overcome official inaction on the issue of global Fair Trade standards, and traces the rise of the Fair Trade movement as a way to strengthen small producers in reaction to the excesses of the market. Even in the most authoritarian contexts, workers find ways to stand up to state failures, sometimes in self-destructive ways, other times in truly revolutionary ways. Su (2011) suggests that the Chinese state is responsible for the dual commodification of education and labor, and the rash of recent suicides at the Foxconn factories can be read as one response to state negligence. Kamel's (2011) firsthand account of Egypt's Tahrir Square demonstrations in 2011, and the labor activism leading up to it over several years, reveals how workers attempt to remake the state via revolution and at the same time build unions independent of the state and the ruling party.

COMMUNITY

Given the previous two themes, with increases in the number of informal workers and the prevalent lack of strong state support for labor, the role of community emerges as an influential factor for workers. Informal workers, in particular, often move in and out of workplaces, may be underemployed, or are self-employed and styled as entrepreneurs rather than laborers. Informality, instability, and precariousness generally mean less bargaining power within the workplace, so these workers must seek support from other sources. But as Fine (2005) argues, a lack of economic power does not automatically translate into a

lack of political power. A key contributor to the success or failure of local struggles to improve working conditions and pay is the role of community. Communities, based on ethnicity or geography, can act as a more stable category of shared experience than industry or trade, helping workers endure and face the challenges of precarious working conditions. This kind of shared experience, outside the workplace itself, can be the basis for organization, even for workers traditionally considered to be unorganizable (Black, 2005; Fine, 2005; McKay, 2006; Milkman, 2006; Soja, 2010; Walsh, 2000). While there are cases where community does not support labor struggles, we can also see clear examples where the explicit cultivation of community and use of community as a frame for worker rights can be a strategy for organizing.

Community can be a vitally important factor in improving workers' lives. In his analysis of informal and formal worker solidarity, Elbert (2011) describes how social bonds play a key role in informal workers' efforts to gain necessary support from formal workers in their labor organizing efforts. But community is not just a haphazard factor in formal-informal worker solidarity. The grass-roots activists behind the two successful examples Elbert describes make community building part of their organizing strategy, setting up barbecues and soccer tournaments involving both formal and informal workers, and holding meetings and discussions at a local bar.

Another explicit example of the use of community in organizing strategy comes from Frambach (2011), who describes a case in which the workers are nominally in the formal sector. Frambach's article examines the lives of, and prospects for, maquiladora workers, and in it she describes how organizing efforts for independent unions have often had to come from the wider community. Geographically based worker centers and NGOs educate workers on their rights, helping them to protest poor working conditions including sexual harassment in the workplace, lack of safety equipment, unpaid overtime, reductions in wages, and speed-ups. Here we have a case where community serves a vital role in organizing a strategy for workers who are unaware of their rights and are working in areas with little or no state enforcement of existing labor laws.

In the absence of state enforcement, the role of community can be critical, but it can also generate both positive and negative results. The struggles of the road construction workers in the Himalayas include temptations stemming from the community of workers, such as gambling and drinking, which often consume the workers' meager incomes (Demenge, 2011). While these activities in the camps may temporarily alleviate some of the stress of facing the constant threat of violent death, community, in this example, does not help workers to communally escape the deep trap of poverty. But there are also positive aspects to community, aspects that support life itself in these extremely adverse circumstances. The wives and children of the road workers often accompany the workers, helping to cook and acting as an informal banking system, lending money to other families when necessary. While many families do seem truly to be trapped,

some are able to save money and support the road workers in the hope of someday being able to leave for a better life.

NEW ORGANIZATIONAL FORMS

A final recurrent theme in this journal issue is the need for, and rise of, alternative organizational forms to advocate for workers' rights. Variation in form is nothing new for labor movements. Organizational forms in the labor movement have evolved over time: for example, in the global North, guilds of small producers have been succeeded by craft unions organized around specific trades, and later by industrial unions gathering together all the trades in a particular industry (Brody, 1993). And labor's organizational template varies across countries based on law and history, encompassing majority and minority unionism, enterprise-based and sector-level agreements, and unions with varying relations to the state (Bamber, Lansbury, & Wailes, 2004; Cook, 2007).

The issue of organizational form for worker organizing is linked to the theme of informalization (see above), and more broadly to the organizational form of business. Milkman (2006) argues that as subcontracting and other processes fragment workplaces, a craft union form based on shared occupational identity may gain new relevance. Fine (2006) explores the growth in the United States of worker centers, a form of community-based minority unionism that particularly targets public opinion and the state, in the absence of other sources of leverage. Similarly, Agarwala (2008) and Chun (2009) show that as employment has become informalized in India, Korea, and the United States, workers have increasingly formed organizations to appeal to the state rather than seeking to bargain collectively with employers. Evans (2010) points out the complementarity between the institutionalized labor movement's "trees" and the more agile "rhizomes" made up of NGOs and grassroots groups; Eade and Leather's collection (2005) examines in detail the frictions and potentials in such collaborations.

In this issue of the *Journal of Workplace Rights*, new forms of organization arise in three types of situations. The first is precisely informal employment and industries dominated by small producers. Indian street vendors (Saha, 2011) and informal workers in Southern Africa (Chinguno, 2011) are organizing associations as informal workers; small producers of coffee, crafts, and other traded items have associated with the Fair Trade movement to gain market power (Shorette, 2011). A second spur for alternative organizations is a closed, corporatist union system in which unions are tightly linked to employers, parties, or the state. This is the context for the growth of worker centers like the Comité Fronterizo Obrero in Mexico (Frambach, 2011) and SACOM in China (Chan, 2011; Su, 2011), as well as for the emergence of independent unions in Egypt (Kamel, 2011) and India (McCallum, 2011). As Hermanson's (2011) commentary points out, Elbert's (2011) Argentine case straddles these first two categories: rank and file groups have organized to bypass the official Peronist unions,

subcontracted and temporary workers have organized to demand rights, and the two new formations are working together in large formal-sector companies. A third stimulus for new types of organization is powerful and intransigent employers. For example, in response to concerted resistance to unionization by the G4S security company in India, the U.S.-based SEIU worked with two Indian union federations to form the Indian Security Workers Organizing Initiative, which is carrying out U.S.-style union organizing but has registered more results from shaming the company and winning state legislation, tactics more commonly linked with worker centers (McCallum, 2011). This set of cases of organizational innovation points to the creativity of labor movements confronted by seemingly insurmountable obstacles, but also to the continuing difficulties posed by those very real obstacles to organizing and advocacy for worker rights.

CONCLUSION

The subtheme of the conference at UCLA was "A Search for Solutions." One of our hopes for this conference and the articles in this volume is that they will raise awareness of these issues and provide both inspiration and guidance to activists and practitioners working at the forefront of the most difficult labor issues today. The articles point to prospects or possible strategies for bolstering worker rights in the global South, while also at times pointing out the protracted and severe nature of the difficulties facing workers who seek to improve their lives. Clearly, there is no magic bullet, but along the important dimensions identified by these articles—the state, community, informalization, and new organizational forms—we see several suggestions on how to improve the conditions of workers' lives. Whether through international campaigns (McCallum, 2011) or efforts to establish independent workers' movements (Chan, 2011; Frambach, 2011; Kamel, 2011; Su, 2011), unionization remains one of the most important avenues for workers looking to improve their situation (Hermanson, 2011). Unionization also serves as an option to counter the growing informalization of the workplace (Chinguno, 2011; Elbert, 2011). Demenge (2011), Elbert (2011), and Frambach (2011) point to the critical role of community organizations and the role they play in providing support for workers, whereas Shorette (2011) and Chan (2011) point to the importance of consumer support. Finally, Seidman (2011) raises the need for greater state involvement in enforcing labor rights and for attention to be paid to state and legal forces—though Parreñas (2011) cautions that well-meaning regulation can sometimes imperil the intended beneficiaries. It is not surprising that these articles do not settle for easy solutions; conversely, it is a credit to the authors that they avoid suggestions that face little prospect of working in the real world. Greater understanding of the circumstances and prospects of workers in the global South can also aid the search for solutions, and it is here that we hope this special issue can make its greatest contribution.

REFERENCES

Agarwala, R. 2008. Reshaping the social contract: Emerging relations between the state and informal labor in India. *Theory and Society,* 37: 375–408.

Bacchetta, M., Ernst, E., & Bustamante, J. P. 2009. *Globalization and informal jobs in developing countries.* Geneva: International Labour Organization.

Bamber, G. J., Lansbury, R. D., & Wailes, N. (Eds.). 2004. *International and comparative employment relations: Globalisation and the developed market economies.* Los Angeles: Sage.

Black, S. J. 2005. Community unionism: A strategy for organizing in the new economy. *New Labor Forum,* 14(3): 24–32.

Brody, D. 1993. *Workers in industrial America: Essays on the twentieth-century struggle* (2nd ed.). New York: Oxford University Press.

Chan, S. D. 2011. Activist perspective: The social cost hidden in the Apple products. *Journal of Workplace Rights,* 15(3-4): 363–365.

Chinguno, C. 2011. Trade unions and workers in the periphery: Forging new forms of solidarity? *Journal of Workplace Rights,* 15(3-4): 367–386.

Chun, J. 2009. *Organizing at the margins: The symbolic politics of labor in South Korea and the United States.* Ithaca, NY: Cornell University Press.

Conca, K. 2005. *Governing water: Contentious transnational politics and global institution building.* Boston, MA: MIT Press.

Cook, M. L. 2007. *The politics of labor reform in Latin America: Between flexibility and rights.* University Park: Pennsylvania State University Press.

Demenge, J. 2011. Road construction, dependency, and exploitation in Ladakh, North India. *Journal of Workplace Rights*, 15(3-4): 303–326.

Eade, D., & Leather, A. (Eds.). 2005. *Development NGOs and labor unions: Terms of engagement.* Bloomfield, CT: Kumarian Press.

Elbert, R. 2011. How do unions respond to nonstandard work arrangements? Relations between core and non-core workers in a food processing factory (Argentina, 2005–2008). *Journal of Workplace Rights,* 15(3-4): 387–398.

Evans, P. 2010. Is it labor's turn to globalize? Twenty-first century opportunities and strategic responses. *Global Labour Journal,* 1: 352–379.

Fine, J. 2005. Community unions and the revival of the American labor movement. *Politics and Society,* 33: 153–199.

Fine, J. 2006. *Worker centers: Organizing communities on the edge of the dream.* Ithaca, NY: ILR Press.

Frambach, H. 2011. ¡Soy Mexicana y tengo derechos! Independent labor organizing on the U.S.-Mexico border. *Journal of Workplace Rights,* 15(3-4): 425–444.

Guha-Khasnobis, B., & Kanbur, S. M. R. 2006. *Informal labour markets and development*. Basingstoke, UK: Palgrave Macmillan.

Hermanson, J. 2011. Activist perspective: Engaged sociology and labor's struggles. *Journal of Workplace Rights,* 15(3-4): 421–423.

Kamel, A. 2011. Activist perspective: The role of independent labor organizations in the Egyptian revolution. *Journal of Workplace Rights,* 15(3-4): 483–484.

Kay, T. 2011. *NAFTA and the politics of labor transnationalism.* Cambridge, UK: Cambridge University Press.

Keck, M. E., & Sikkink, K. 1998. *Activists beyond borders: Advocacy networks in international politics.* Ithaca, NY: Cornell University Press.

Maiti, D., & Sen, K. 2010. The informal sector in India. *Journal of South Asian Development,* 5: 1–13.

Marcelli, E., Williams, C. C., & Joassart, P. 2010. *Informal work in developed nations.* London: Routledge.

McCallum, J. K. 2011. Organizing the "unorganized": Varieties of transnational trade union collaboration and social dialogue in two Indian cities. *Journal of Workplace Rights,* 15(3-4): 399–419.

McKay, S. C. 2006. The squeaky wheel's dilemma: New forms of labor organizing in the Philippines. *Labor Studies Journal,* 30(4): 41–63.

Milkman, R. 2006. *L.A. Story: Immigrant workers and the future of the U.S. labor movement*. New York: Russell Sage Foundation.

Muntaner, C., Solar, O., Vanroelen, C., Martinez, J. M., Vergara, M., Santana, V., Castedo, A., Kim, I.-H., & Benach, J. 2010. Unemployment, informal work, precarious employment, child labor, slavery, and health inequalities: Pathways and mechanisms. *International Journal of Health Services,* 40: 281–295.

Parreñas, R. S. 2011. The indentured mobility of migrant women: How gendered protectionist laws leave Filipina hostesses to forced sexual labor. *Journal of Workplace Rights,* 15(3-4): 327–339.

Pfau-Effinger, B., Flaquer, L., & Jensen, P. H. 2009. *Formal and informal work: The hidden work regime in Europe.* New York: Routledge.

Saha, D. 2011. Collective bargaining for street vendors in Mumbai: Toward promotion of social dialogue. *Journal of Workplace Rights,* 15(3-4): 445–460.

Seidman, G. 2009. *Beyond the boycott: Labor rights, human rights and transnationalism.* New York: Russell Sage Publications.

Seidman, G. 2011. Comment: Keeping the politics in labor research. *Journal of Workplace Rights,* 15(3-4): 485–486.

Shorette, K. 2011. Fair Trade and the Double Movement: The promise and contradictions of improving labor standards in the global south via market mechanisms. *Journal of Workplace Rights,* 15(3-4): 461–481.

Soja, E. W. 2010. *Seeking spatial justice.* Minneapolis: University of Minnesota Press.

Su, Y. 2011. Student workers in the Foxconn Empire: The commodification of education and labor in China. *Journal of Workplace Rights,* 15(3-4): 341–362.

Tarrow, S. 2005. *The new transnational activism.* Cambridge, UK: Cambridge University Press.

Walsh, J. 2000. Organizing the scale of labor regulation in the United States: Service-sector activism in the city. *Environment and Planning A,* 32: 1593–1610.

Direct reprint requests to:

Chris Tilly
Institute for Research on Labor and Employment
UCLA
Los Angeles, CA 90095-1478
e-mail: tilly@ucla.edu

ROAD CONSTRUCTION, DEPENDENCY, AND EXPLOITATION IN LADAKH, NORTH INDIA

JONATHAN DEMENGE

University of Sussex, Brighton, UK

ABSTRACT

This article explores the politics of road construction and its effects on migrant workers in Ladakh, North India. The Zanskar Highway, a 292-kilometer-long trans-Himalayan road that has been under construction since 1971, provides employment to more than 1,200 seasonal and permanent road builders and their families. It is being built by the Border Roads Organisation, a public company that recently made the headlines for its abysmal treatment of workers, labor rights violations, and high fatality rate. Through an ethnography of road builders and their families, I document their situation and their particular relationship to death and danger. I attempt to assess the effects of road construction on workers' livelihoods and well-being, and point to a paradox: whereas labor-intensive methods are devised to generate employment and benefit workers, institutional mechanisms maintain workers in a situation of dependency and exploitation. The article identifies these mechanisms and suggests some potential solutions.

This article deals with the experience of migrant road workers on the Zanskar Highway, a high-altitude trans-Himalayan road under construction in Ladakh, NorthIndia. One purpose of road construction is to provide employment and generate livelihoods: road construction is used as a poverty alleviation tool, but how does it benefit road workers in reality? What are its effects on their livelihoods and well-being? Based on ethnographic observations, I argue that the agency of workers is severely constrained by structural factors that in many

303

cases prevent workers from benefiting from the redistributive effects of road construction. As a result, migrant workers see little or no improvement in their well-being.

The article is divided into four sections. The first section situates Ladakh, the Zanskar Highway, and the company in charge of its construction, the Border Roads Organisation (BRO). The second section consists of an ethnography of migrant road workers in Chilling and their families, their daily experiences on the road, and their immediate experience with danger. In the third section, I attempt to understand the wider framework and the factors that structure their experience as migrants and road workers. The article concludes with a section on potential solutions in response to the specific issues identified in the article, with the goal of alleviating the suffering and improving the situation of road workers based on existing mechanisms of protection and on the needs and demands of workers and their families.

SITUATING LADAKH AND THE ZANSKAR HIGHWAY

Ladakh and the Road

Ladakh is a sparsely populated mountainous region situated in the state of Jammu and Kashmir (J&K) in North India. The region is characterized by high-altitude mountain ranges, a semi-Arctic climate, and scattered villages that rely to a large extent on agriculture and pastoralism. Once an important Central Asian trading place located on one of the feeders of the Silk Route (Rizvi, 1999), Ladakh saw this flourishing trade end with the closing of its borders toward the end of the 1940s at the time of India's partition and the Chinese invasion of Tibet. Ladakh is also a contested territory that has seen four wars with Pakistan, in 1947, 1965, 1971, and 1999, and one with China in 1962. Parts of Ladakh are controlled by Pakistan and China, and its borders remain disputed. As recently as 1960, Ladakh was still unconnected by roads, and today some villages remain several days' walk from where the nearest road stops.

Currently, two roads link Ladakh to the rest of the country: the Srinagar-Leh road, completed in 1962, and the Manali-Leh road, completed in 1973. The two roads provide access to the region for nearly eight months of the year, but they are closed in winter. Since perhaps 1971, a third road has been under construction: the Zanskar Highway (it is difficult to date the beginning of the construction of the Zanskar Highway since the Public Works Department (PWD) office in Leh—and with it, all records of road construction in Ladakh—was "accidentally" burnt down in 2006. However, some of my respondents at the PWD have dated it as early as 1971 or 1979). The 292-kilometer-long road—whose trajectory follows the steep, narrow gorges of the Zanskar River and crosses the 5,060-meter-high Shingo La—will ultimately link the Indus Valley in the north to the

region of Zanskar and the state of Himachal Pradesh in the south, making the region accessible overland all year round for the first time. The road is being built to improve accessibility and link remote regions and their populations to the road network. It is also being built to answer strategic needs, as was the case with the Srinagar-Leh and Manali-Leh roads, which first opened for military traffic and are managed by the BRO. The Zanskar Highway was first under construction for civilian purposes, but it became a military project as it passed into BRO hands in 2001, following the Kargil war of 1999 and the recommendations of the Kargil Committee (Foundation stone laid, 2002).

The Zanskar Highway—like roads in general—also matters in terms of employment. Road construction provides employment, creates wealth, and redistributes income. Edmonds and Howe show that such labor-intensive methods have been consciously used by developing countries—where labor is generally abundant in relation to capital—to employ a mass of unemployed or underemployed laborers, often in order to provide a safety net to prevent poor people from falling into destitution and sometimes as food-for-work or famine relief programs (Booth, Hammer, & Lovell, 2000). By creating employment in rural areas for unskilled labor, labor-based methods also decrease rural-to-urban migration; they allow local contractors to be employed and therefore bring economic development to rural areas at the same time as they increase rural workers' skill levels. Importantly, they generate an income that can be immediately invested, thereby increasing agricultural production and rural industrial activities. In the longer run, labor-intensive methods can also be used for road maintenance, providing durable employment to the population. For these reasons, labor-based road construction and maintenance are strongly encouraged and favored by donors (see Porter, 2002). In its annual report on the Sub-Saharan Africa Transport Policy Program (SSATP), the World Bank considers employment generation to be one of the crosscutting issues of transport development (SSATP, 2008) and actively promotes the concept (SSATP, 2007, 2011).

In India, also, the objective of employment generation has long been included in road construction considerations: the Bombay Plan stated that "road construction and maintenance can provide employment for a very large number of skilled and unskilled labour[ers]," and it was later established that employment generation should be seen as one of the key objectives in the development of the country's transport system (Dalvi & Verma, 1984). Chief engineers estimated that "road construction and maintenance can provide employment for a very large number of skilled and unskilled labour[ers]," whose number would grow "from about eight *lakhs* [800,000] in 1961–62 to 42 *lakhs* [4.2 million] in 1980–81" (Central Road Research Institute, 1963: 100). In 1974, a study commissioned by the Planning Commission estimated that the construction of every kilometer of national highway would create 141 to 153 person-years of work, along with up to 96 for state highways, 85 for district roads, and 32 for village roads (NCAER, 1974). Road construction targets included in the Fifth Five-Year

Plan (1974–1979), it said, would generate an employment level of 10.8 million person-years, while the transport sector would employ another 2.9 million people permanently. The employment component can be found in the following five-year plans issued by the Planning Commission, which state that numerous village roads have been constructed under various employment programs and famine relief schemes: see, for instance, the Ninth Five-Year Plan (Government of India, 1997). The Eleventh Five-Year Plan insists on the use of labor-based technology to provide employment in rural areas and contain rural-to-urban migration (Ministry of Rural Development & Planning Commission, 2006). This highlights the dual objective of road construction in India: delivering roads as well as creating employment and redistributing income. And BRO is the subject of a full chapter in Edmonds and Howe's *Roads and resources* as one successful illustration of the use of labor-intensive methods in road construction on a large scale (Soin, 1980).

In Ladakh, the Zanskar Highway provides employment to more than 1,200 seasonal and permanent road builders and their families on four different construction sites. These workers—who originate from Nepal, Jharkhand, Bihar, and West Bengal—live and work in incredibly difficult conditions, moving with the road as it slowly progresses into inhospitable territory. However, as the sections below tend to show, the road provides employment and immediate means of subsistence, but besides that, workers tend to live in abysmal conditions, their incomes are insufficient, they see no long-term improvement in well-being, and their situation remains vulnerable and marginal. But before looking at the ethnography of road workers, I would like to present the BRO, its history, and the legal and institutional arrangements that define its relationship with road workers.

THE BORDER ROADS ORGANISATION

BRO was created in May 1960, under the impetus of the then prime minister of India, Jawaharlal Nehru. BRO is an interministerial agency under the chairpersonship of the prime minister (of the minister of state for defense since 1985), and it is part of the Ministry of Road Transport and Highways. It is in charge of the construction of strategic infrastructure (roads, bridges, airstrips, buildings, etc.) and supports the army in time of war. Since its creation, BRO has been entrusted with road construction in several states of India, as well as in Bhutan, Burma, and Afghanistan. BRO has a semi-military structure and is composed of the General Reserve Engineer Force (GREF), engineers of the Indian army's corps of engineers, as well as numerous casual workers. BRO controls 15 projects. In Ladakh, the project is called Himank from the Zoji La in the west to the Tanglang La in the east.

As of 2004, BRO employed 37,300 GREF personnel, and 70,000 CPL (casual paid labor) personnel, the latter engaged on six-month contracts. Although the immense majority of the work force is called "casual," in reality many CPL

personnel work permanently for BRO: some workers I interviewed had been working for BRO without any interruption for more than six years. Yet their working conditions are extremely precarious, and their contracts can be terminated at any time without advance notice, or not be renewed. For instance, in February 2005, 306 CPL workers were laid off in Akhnoor and formed a workers' association. As the chief engineer of the project mentioned:

> Para 503 of Border Roads Regulations clearly says: "The personnel may be employed on daily or monthly rates of pay. If on monthly rates, the period of their engagement shall be for a maximum period of six months at a time and the personnel shall not be eligible for any of the privileges of continued employment under Government. The services of the personnel are liable to be terminated at any time without notice and no terminal benefits shall be payable." ("Termination of services," 2005)

The workers' action was also labeled "illegal and unjustified," since working conditions are constrained by army rules and by the Army Act, although CPL personnel are not entitled to army benefits such as salaries, pension, compensation, or other advantages. Therefore, basic rights such as those contained in the Minimum Wages Act and the Industrial Dispute Act, the right to unionism, and simply the right to the formation of an association do not apply to BRO workers (Termination of services, 2005). And it is a fact that BRO workers are denied minimum wages and benefits ("Wages for BRO workers released," 2008).

In wartime, BRO acts as a military organization by repairing roads, bridges, and airstrips of strategic importance. For this, it also relies heavily on CPL workers. During the Kargil war in 1999, 1,300 laborers were brought in from Dumka to maintain and repair roads and bridges that were being shelled by the Pakistani army (Noatay, 1999). Although BRO workers are entitled to compensation in case of death or disability (Rs200,000 in compensation in the case of death; Rs150,000 in the case of total disability; and Rs100,000 multiplied by the percentage of loss of earning capacity in the case of partial disablement), the rules also state that workers employed for less than 179 days are not eligible for compensation (BRO, 2009). Even though CPL workers or their families generally do receive compensation, the payment is often delayed ("Demands of CPLs," 2003) and is only provided after a lengthy (18 months) and complicated process during which most of the money is diverted toward bribes and other expenditures. If a deceased worker's body is not found, as in Chilling in August 2006 when two bodies were swept away in the Zanskar River, compensation can only be paid after seven years. Many other accidents and diseases linked to working conditions, such as pulmonary edema, are not covered and do not give workers the right to compensation (Noatay, 1999).

Despite the absence of political rights, CPL workers episodically take action, demonstrate, and go on strike to demand better working and living conditions. In 2001, a group of workers complained to the All India Trade Union Congress

regarding the lack of compensation, delayed payment of salaries, absence of retire-ment benefits, and generally "anti-labour policies" ("Defence civilians to observe July 13," 2001). In 2003, workers complained to the state of J&K about "non-payment of bonus, supply of inferior quality uniform and shoes, non-clearance of wage arrears and delayed settlement of compensation cases" and asked for the payment of retirement pensions, the issuance of insurance, and the reinstatement of workers who had been laid off ("Demands of CRLs," 2003). In 2004, the J&K minister for labor and employment raised the issue and asked BRO "to take appro-priate measures for improving the working conditions of its vast human resource." Workers were asking for transport, temporary shelter, medical aid, and the supply of essential commodities at fair prices, as well as the "implementation of Labour laws, security cover and other welfare schemes for all Casual Paid Labourers and early disposal of cases under [the] Workmen's compensation Act and payment of compensation as per provisions of the Act" ("Jora commends BRO," 2004).

In the past, BRO has applied extremely repressive policies to its employees. In 1980, the Centre of Indian Trade Unions (CITU) in a note to the ILO com-plained that BRO workers "ha[d] been refused the right to form an association, ha[d] been arrested, tortured, detained without trial and dismissed for their trade union activity and had their 'illegal' trade union premises broken into, their documents confiscated and their funds seized" (ILO, 1981). These events took place in December 1979, after 2,000 workers employed in Tezpur, Assam, formed an association to demand better working conditions. A protest was held, the army was sent in, and workers were fined and beaten and 335 of them "arrested and held in prisoner of war cells for weeks and months without sanitation, food, water or lighting arrangements and their families were terrorized by the military" (ILO, 1981). Some were held for 18 months before being discharged without trial, while some were still in jail awaiting their trials at the time of the 1981 report (ILO, 1983). The case was finally dropped in 1983 after the ILO acknowledged the conclusions of an internal Supreme Court judgment that ruled that army rules—and therefore the absence of freedom of association—applied to BRO employees (ILO, 1983).

Although this incident was never mentioned by the workers themselves (and probably was never heard of by them), such facts explain why in Chilling BRO workers were not politically organized. They complained about working condi-tions, their pay being raised and decreased, the fact that maternity leave was no longer granted, and the fact that promised rations and equipment were never delivered (working equipment, clothes, shoes, and mattresses, for instance), but they rarely complained formally to the hierarchy. As the then director of BRO, Major General Soin, put it in 1980: "BRO is run along military lines," which "produces relative efficiency" (Soin, 1980: 165). BRO relies heavily on "casual" laborers, who—although not trained—are permanently employed to perform the most dangerous tasks in place of BRO's regular employees. Institutionally, everything seems to be set up to sustain this relatively cheap and docile source of labor.

ETHNOGRAPHY OF MIGRANT ROAD WORKERS

The Life of Thinle Sherpa

Among the 1,200 migrants who work on the four construction sites of the Zanskar Highway every summer, around 300 are stationed in the village of Chilling, at the northern end of the road. They stay in three camps situated on the side of the road at a distance of 500 meters to five kilometers before and after the village. The experiences of these men and women provide first-hand material that helps us understand the consequences of roads and road construction for road workers in terms of livelihoods and well-being. During my fieldwork, I focused on two groups of workers. The first was a crew of Nepali CPL workers (mainly Sherpas) living and working in Chilling on a long-term basis. Most of them lived there with their families (wives and children) and formed the vanguard of the drillers and blasters. The second group was a crew of 48 seasonal workers—or ICPL (imported casual paid labor) workers—all men, recruited in Nagrota, near Jammu, to work in Chilling during the four summer months (June to September). Like most road builders in Ladakh, they came from the district of Dumka in Jharkhand, to which they generally returned after their four-month period in Chilling.

From September 2006 to July 2009, I engaged with many migrant workers along the Zanskar Highway and collected many different stories. Out of this complexity and this myriad of experiences, some elements were shared by many workers: there seemed to be certain recurrent patterns in their choice to migrate and work on the road, and in their experience with work, death, and danger. These are well embodied by the concept of "structural violence" (Farmer, 1997, 2004; Galtung, 1969), which was first used by Galtung to differentiate it from personal violence: it is not the violence that a particular person commits but that which is "built into structure" (Galtung, 1969: 171). Close to constituting a situation of social injustice, structural violence does not deny migrants agency, but it curbs it and puts some people more at risk of suffering and death than others. I use this concept to try to understand what drives workers on the road, what structures their choice, and why they do not benefit from the road. I propose to explore these themes through the life of Thinle Sherpa, one of the first CPL workers I met when I returned to Chilling in April 2007. It was he who introduced me to the world of road workers as I followed him from his morning rituals to his drilling work during the day and back to his tent in the evening. It was also with his family that I stayed in winter. Many of the things I learnt on the road were through Thinle, and heuristically, his life and experience on the road contain most of the elements necessary to understand the lives of road workers in Ladakh.

Thinle was born around 1967 in a village called Kiangsing in the district of Sindhupalchok in Nepal, close to the border with Tibet. At the age of 15, he started working far from home to supplement the household's income, when he left to sell garments on the streets of Bombay and later in Karnataka. He returned

after four long years and married Zangmo, with whom he had four daughters before he left Nepal again. Thinle sometimes worked in the lumber business, illegally exporting wood to Tibet and reinvesting his income to buy cows. When he started experiencing losses, he decided to leave again, alone, to sell garments in Bombay. He returned after a few months and bought 50 goats, most of which died of disease. The political and security situation in Nepal was grim as the country was going through the People's War of 1996–2006, and the national and local economy was deteriorating further. Thinle and his family lived in fear of forced enrollment by the Maoists and had to face looting and acts of violence from both Maoist and government forces, as both would ask the villagers for support while suspecting them of helping the enemy.

In 2003, like many others, Thinle and Zangmo decided to leave Nepal with their two eldest daughters and their fifth, newborn daughter Passang Dolma. They started their long journey in Himachal Pradesh, where Thinle and Zangmo worked for a private road contractor. Yet, as is often the case with migrants, they were cheated and were never paid. When they heard that working conditions in Ladakh were better, they decided to cross the Himalayas. They worked in Stok, building walls and canals, but once again they were not paid the full amount that was due to them. From Stok, they went to Skalzangling, where Thinle worked as a mason and Zangmo gave birth to their sixth child and only son, Tashi. Whereas their economic situation had been deteriorating for years, and had deteriorated further since they had left Nepal, it now started to improve for the first time, although only temporarily. From Skalzangling they moved to Shey, where they found work in stone breaking. They then moved to Kargil in 2005 to work in road construction for a private contractor and there married their eldest daughter to a relative. When they heard about work opportunities with the army in Batalik, they moved there, and Thinle started carrying food rations from the main army camp to advanced posts. The work was well paid, but conditions were terribly difficult: he had to work at night, carrying heavy loads in the snow, and he was the only breadwinner. Once again, they left in search of a better livelihood.

In November 2006, Thinle and his family reached Chilling. Some of their relatives were already working there, and Thinle had heard about work opportunities with BRO on the Zanskar Highway. This is how he recalled his arrival in Chilling when I first met him in April 2007:

> The officer recruited us for that purpose [drilling]. We didn't want to, we were scared, but the officer said, "There are no vacancies in road maintenance and embankments; there are only vacancies in drilling." We had heard about the deaths [Four workers had died in an accident in Chilling in August 2006]. The officer didn't tell me, but because of the deaths in August, the drilling had stopped until December. Because of that, they told me they would give me employment as a driller. This is my first job as a driller.
>
> I came here and I heard from people who had been working here longer that people had died right at that place. And for the first three days, I was

really scared. Nobody was working there at the time. From December to
April, we've received more money than people normally get for drilling:
Rs3,900 [about $85] per month instead of Rs3,200. This is more than you
get elsewhere.

Until June 2007, Thinle, Zangmo, and three of their children—Mingmar,
Passang Dolma, and little Tashi—shared a concrete shelter with another Nepali
family next to the trolley over the river, on the uphill side of the road. In 2007,
Thinle's family, along with about 12 other families, was relocated to a campsite
opposite the place where the Markha River flows into the Zanskar, where the
new trolley now stands. The new camp was closer to the construction site, but
there was no stream nearby: water had to be brought to the camp every morning
in large barrels in the back of a truck.

Unlike Chilling or other villages in Ladakh situated in areas that receive a lot of
sun in summer and winter, both of the areas where the road builders lived lay in the
shade of high peaks and ridges most of the day, barely receiving two hours of sun
per day in the middle of winter. If the temperature inside the tents was suffocating
in summer, it dived far below zero during winter as the icy Zanskar wind blew
along the river, penetrating the numerous tears and holes in the tents, seeping
through the blankets, and freezing one to the bone. When I asked a camp inhabitant
in spring where the hens I had seen the previous autumn had gone, she told me
they had frozen overnight. And indeed, once the small *bokhari* stove had stopped
producing its heat and smoke, the temperature would become arctic: I remember
staying awake and shivering the whole night in Thinle's tent. In the early morning,
the drillers would leave for work severely underequipped; they would build small
bonfires in order to get warm in the shade of the cold vertical walls that dominate
the river, a thin dark-blue ribbon partly covered by ice and snow at that time
of year. It was so cold that fuel tanks and engines had to be heated over the flame of
a stove placed underneath the tipper, before the engines could be started.

Unsurprisingly, the climate was a fundamental variable in workers' lives and
well-being in Chilling. It determined their living and working conditions, what
food was available and how much it would cost, how much they would have to
spend on heating, what work could be done, and how much they would be
paid. The winter months were thus cold and difficult: people often fell sick
(especially children), food was limited and expensive, and heating was costly.
On the other hand, workers were paid more, working days were shorter, and the
frost held the rocks together so that rock falls were less frequent. In summer,
the heat could be unbearable (especially in the tents for women who stayed at the
camp), so that food spoiled easily, there was a bigger workload, and the melting
frost and rain could trigger numerous landslides. The working conditions were
much more dangerous. Yet in summer, migrant workers could also work for
the local villagers and sell *chang* (beer) and *raksi* (distilled alcohol made of
fermented rice) to seasonal workers and earn extra income.

Thinle and his family worked on the construction site for nearly two years: Thinle as a driller, and his wife Zangmo as a *chowkidar*, guarding the camp during the day and monitoring movement on the dirt track during the night to prevent people from stealing road-building materials. Mingmar—their second daughter— also worked on the road, mixing cement and building walls. Zangmo also prepared rice *chang* and *raksi* over the fire during the day, selling it to workers who stopped at the camp during or after work. Sometimes, she also cooked for them. Workers— CPL and ICPL but also regular BRO employees—usually paid her at the end of the month when wages were distributed. Workers sometimes left Chilling in considerable debt, and sometimes people's money was stolen, which is how Zangmo's neighbor Neema Dolma lost Rs7,000 one day. In spite of this, the three wages paid by BRO allowed Thinle and his family to make a living and save money.

The cost of living is high for migrants working on the road: they do not have access to government rations, most BRO rations are sold on the black market, and, as a result, a large proportion of their income is spent on food and fuel for heating (wood and kerosene). Because living costs are high, many workers do not manage to save much, spending most of their income on what is required for their subsistence and that of their family. Yet Thinle and his family were among the few who were doing well. This was the first time in his life that Thinle had managed to save so much—Rs10,000 to Rs12,000 a month on average, mostly thanks to the sale of *raksi* and *chang* (up to Rs8,000). This was very unusual for Chilling, where, in general, the level of savings was much lower—around Rs2,000 a month—while many households and workers did not manage to save anything. Thinle and his family even made plans for their future back home in Kiangsing, as the situation in Nepal had improved since the end of the civil war and the signing of a peace agreement in 2006. Thinle's family had a small piece of land in Kiangsing, and they would send money back home to build a house. They were planning to buy sheep and goats and restart Thinle's cattle business. Zangmo even talked one day of buying a car—how seriously it is difficult to tell, since there is no road to Kiangsing. Their daughter Mingmar was happy with these plans: "I don't like working on roads. My dream is to become a goat-keeper in Nepal. My father told me we're leaving next year in October [2008]. I'm looking forward to that."

Living with Danger

Building the road in Chilling was terribly risky. The danger was obvious to anybody visiting the area, but many workers were willing to take the risk, as here at least they were not cheated too heavily and payments came in regularly. Based on the intensity and dangerousness of the tasks, there were essentially two types of work in Chilling: drilling/blasting and other diverse tasks such as digging, building walls and drainage, breaking stones, loading trucks, setting the

stone roadbed, and tarring. The drillers and blasters were mostly CPL workers overseen by a junior engineer, diesel engine operator, and blaster, while other tasks were performed mostly by ICPL workers, loosely supervised by their *mate* (labor broker and manager) and sometimes by a BRO overseer. Doing physical work at this elevation and in these conditions is necessarily strenuous, but the pace of work for the ICPL workers was rather lax—except when the officer in command was due to visit, generally on Wednesday mornings. Tarring—although impressive to an outsider because of the flames, the dark clouds of burning kerosene, the smell of melting tar, the sooty faces and blackened clothes, and the hellish picture that emerged—was not perceived as a difficult task by the workers themselves, although they largely ignored its health consequences.

In comparison, drillers and blasters worked at the forefront, digging the road, blast after blast, at a pace of two meters a day. Two to three blasts were carried out each day and between 5 and 20 holes had to be drilled for each blast. The drilling machine was powered by a compressor stationed outside the danger zone, to which it was linked by 100 meters of rubber pipe. As the drilling progressed, three drill-bits of different lengths had to be used. Up to six workers could be required to hold the machine and exert enough pressure for the bit to penetrate the rock, while another worker held the bit in his bare hand to direct it into the hole. A lever that had to be operated intermittently stopped the drilling and released a powerful stream of air into the hole to clear it of rock dust. Sometimes, the bit would get stuck, so that work would have to be interrupted for a time to release the bit with the help of a hammer and wrench. Drilling one hole generally took between 10 and 20 minutes depending on its depth, the hardness of the rock, the position of the drillers, and whether or not the workers had to look out for falling rocks or be careful not to slip down the cliff. For anyone standing less than three meters away, the noise was deafening and unbearable; the vibrations in the soil could be felt up to 20 meters away, shaking the whole rock face; and the operation sent up clouds of dust. Despite this, the workers were equipped with only minimal protection: a helmet, a scarf over the mouth to prevent dust from entering the lungs, and a cheap pair of sunglasses to protect the eyes from dust.

Before the drillers had finished, the blasters would start filling the holes with explosives—five sticks (600 grams) for a small hole, and up to 16 sticks (2 kilograms) for a 10-foot-deep hole—pushing them in with a wooden stick until each hole was full. All the holes were then connected by a green gunpowder wire, while the last hole was connected to a fuse and lighting wire: 50 centimeters allowed a one-minute lapse between the ignition and the explosion. When everything was ready, everyone vacated this theater of operations, except for two blasters who stayed behind. When we observed the scene from a distance of 300 to 400 meters, everything seemed silent. Far away, we could see the two blasters running in our direction to find shelter behind the compressor. For another 20 seconds, nothing happened. Still silently, a sudden, violent burst of rocks and dust erupted horizontally from the cliff, drawing a vertical asymptote as stones

were gradually drawn by gravity toward the river below. Only then, 1.5 seconds later, would a thundering explosion shake the whole gorge, resonating deep inside our bodies as small stones and sand started falling from above us. At the same time, as more and more stones became detached from the face of the explosion site and fell into the river, a large cloud of dust would rise up toward the sky, obscuring the valley and spreading the smell of gunpowder. Sometimes, a second landslide, even bigger than the first, might follow, as the rock face, weakened by the explosion, collapsed, taking down with it everything in its way. This is why the biggest blast usually took place at the end of the day so that the stones would fall at night when nobody was onsite.

After the explosion, the place had to be prepared for the next blast. Drillers and around 7–10 helpers had to clean the site, throwing rocks down the cliff with the help of picks, bars, and shovels and sometimes pushing stones forward with their feet or hands while a colleague loosely secured them by holding onto their shirt collars. If the platform was wide enough, then a bulldozer could be brought in to clear it all in one go, although the vibrations of the tracked vehicle often provoked further rock falls from above. The cliff face above also had to be cleared of loose rocks, for which long rods were used; or Thinle and other Sherpas would climb up and try to detach the biggest and most unstable elements. Yet this kind of terrain could never be totally cleared, and one could never be sure that the face would not crumble at some time or another.

It was fascinating to see how workers—especially drillers—managed to deal with danger on a daily basis. They could not avoid it, and so they seemed to try and tame it, often with the help of their gods. I once discussed this with Thinle:

> Are you less afraid now?
>
> Everybody prays to their gods in the morning; there is a small temple up there. We pray to our own gods.
>
> How is the work compared to what you expected?
>
> It's OK. The only fear is that we might die. Otherwise the work is not difficult.

In May 2007, Thinle and the others went back to drilling following a blast in which a whole section of the mountain collapsed. One of the drillers—Shanta Bahadur—was killed on the spot, while another was injured. Thinle, who had been standing just next to Shanta, was miraculously safe. When we talked about it, Thinle was trying to understand. That morning, Shanta had told Thinle that he wanted to quit his job in Chilling and go back to Delhi to a safer job, even if it paid less. "Why him and not me?" said Thinle. "He also respected the gods. Perhaps he didn't believe sincerely."

Prayers and faith were often the only protection that workers had: as they often put it, "Everything depends on the mercy of God(s)." In Chilling, the day always started with a *puja* (prayer ritual), for Hindus, Sikhs and Buddhists alike, at home and/or at the small Shiva *mandir* under the cliff where representations

of Shiva, Hanuman, Durga, and Guru Nanak were displayed (the temple was built where the four workers had died in August 2006, and was completely washed away by a landslide a few months later), and more especially at the old Lamaguru sanctuary where Thinle would pray. A *puja* to Vishwakarma was also carried out on bulldozers and compressors, which were all marked with an "Om." On the helmets of the drillers and helpers were painted the words "Om nama Shiva" or "Jai mata di," tridents as symbols of Lord Shiva, or the words "God doesn't forgive the sinner" or "If you want to take me, ask my boss first." Engineers also took part in the *pujas*, paying their respects to the gods before starting work, washing their feet, prostrating, lighting incense, and ringing the bell at the *mandir*. Builders sometimes built small statues of Durga in the walls, using the remaining cement, and inscribed "Jai Ma Kali" in the fresh concrete.

Yet people carrying out the most dangerous tasks, such as drilling, seemed to defy danger. It was very common to see them standing on the most unstable rocks at the cliff's edge, quietly rearranging their scarves and helmets. During breaks, a common game was to throw stones at each other's helmets or at the cliff just above somebody who was sitting down or napping, initiating small rock falls: the person lying underneath had to stand up quickly and jump aside to avoid being scattered with rocks. It was also common to see two or three workers "clearing" unstable cliffs by throwing stones at huge rocks above them with diabolical precision—causing rocks and soil to fall—while they could have done it more efficiently and quickly with a long iron rod. At the end of the day, everyone jumped into the back of the tipper; as it drove dangerously fast along the edge of the cliff, one had to bend down to avoid being injured by overhanging rocks, while the youngest drillers would push each other and simulate falls. When Thinle and his companion Karma were clearing the slope, the whole scene looked like a ballet as they gracefully danced along the cliff, ignoring the 70 or 80 meters of emptiness below them. There was no sign of fear as Thinle proudly cried out "Sherpa!" to designate his friend: Thinle was a Sherpa too, and they did not fear the void. There seemed to be an excitement about danger. As Thinle put it, the job was not difficult: the only risk was death. Although they were perfectly well aware of the danger, they did not flee from it. Perhaps because the risks were unavoidable and largely unpredictable, workers often seemed to play with them, taming danger and relying on the mercy of the gods rather than attempting in vain to avoid danger.

If the drillers were most at risk, the danger did not spare other workers and family members either. It affected them in a different and more insidious way, putting them at risk of losing someone they loved, who was often also the main breadwinner of the family. After the accident of May 2007, "safety measures" were adopted. Somebody would look after the drillers and blow a whistle if rocks started to fall. The measure seemed of little use because the noise of the drill would conceal the sound of the whistle. Mingmar became the "whistle blower" while her father was drilling: "The work is easy. I just have to carry the

water and blow the whistle"; but "Drilling is dangerous; I fear for my father. Stones can fall at any time." Zangmo too feared for Thinle. At 4 p.m., in what had become a daily ceremony, Zangmo and her neighbor Kamla would wait outside their shelter, scanning the end of the road, anxiously waiting for the truck that would bring their husbands and children back to the camp.

The last time I saw Thinle and his family was in January 2008, before I left Chilling for Leh in the back of a tipper with two Bihari road workers who were freezing to death in their cotton trousers, acrylic socks in plastic flip-flops, and torn woolen gloves. I hoped I would meet Thinle some day when he and his family had returned to Nepal, but it was not to be. In October 2008, I received a message from a friend who had just returned from Chilling, bearing bad news. At the end of September, just after an explosion had occurred, Thinle and three other workers returned to the site to inspect the work of the blast, when a freshly destabilized section of the mountain collapsed. The other three workers just had time to flee, but Thinle, who was behind them, was hurt when a stone struck him on the head. He was brought unconscious to the hospital in Leh in a BRO tipper and pronounced dead three days later, on October 1, 2008.

THE WIDER FRAMEWORK

Leaving aside the ethnography of road workers, let us attempt to understand the larger social matrix in which this ethnography is embedded. The story of Thinle and his family is unique, but some of its features correspond to patterns that are common to many road workers' stories in Ladakh. There are probably many Thinles and Zangmos whose stories remain undocumented. The stories of Nima Dorje, Shanta, Doma, or the four Jharkhandi workers who died in the summer of 2006 would also have unveiled "some of the mechanisms through which large-scale social forces crystallize into the sharp, hard surfaces of individual suffering" (Farmer, 1997: 263). As seen in the story of Thinle, several factors can help us understand the conditions that drive migrants to work in road construction, and make them accept work as drillers and endure intolerable risks. None of these factors is explanatory on its own: rather, it is the cumulative effect of the political, social, and economic forces that structure the risk and might help us explain the situation of road workers, their willingness to endure risks, and the incidence of "structural violence."

The first factor mentioned in Thinle's story was the situation in Nepal, which has a long history of labor outmigration: estimates of the number of Nepalese working in India vary between 250,000 and 1 million (Seddon, Adhikari, & Gurung, 2002; see also Seddon, 2011). The situation was further exacerbated by the civil conflict of 1996–2006, which drove many people who faced threats and could not make a living in Nepal out of the country. This was a common feature in the stories of other Nepali migrants in Chilling.

A second factor that had aggravated Thinle's situation was the precariousness of work. After they left Nepal in 2003, Thinle and his family worked in eight different locations in less than five years. Often, the work was temporary, and once the work was finished they had to look for another source of income. If labor demand in Ladakh is high in summer (due to tourism and agricultural work), it is low during other seasons and nearly nonexistent in winter, when it is too cold for construction work and the whole economy comes to a standstill. In two locations, their employers cheated them out of the full amount due to them. This set of circumstances led many migrants to work for BRO, where at least they received their full wage on a monthly basis and all year round.

A third factor was the limited amount of bargaining power and the narrow margin of maneuver that Thinle had, due to economic as well as institutional factors. When he came to Chilling with his family, he needed to work. He did not want to be a driller, he was scared, he had no experience of drilling, he had heard of accidents occurring, but it was the only job he was offered. Most drillers were in a similar position: they were traveling with their families, had limited resources, and had to work to provide for their needs. This made them accept short-term contracts and dangerous jobs such as blasting and drilling. Thinle's family shared their shelter with another Nepali family: Preeti Bohra, his wife Kamla Devi, and their two sons, Buddhiram and Harida. Both the father and the elder son (16 years old at the time of the interview) worked as drillers, while the mother worked at night as a guard. When I asked Kamla why they had come to Chilling, her answer was: "Anyway, I have to work because I have to feed my family." When they arrived in Chilling, they had nothing and had to borrow Rs3,500 from Thinle's family in order to survive during the first month.

Workers' bargaining power varies greatly. It depends partly on their family situation, since people with dependents are less mobile than those without, and cannot easily refuse a job or stay unemployed for long, but it is also determined largely by their status. ICPL workers are relatively free to refuse dangerous tasks. When I asked an ICPL worker, a male without dependents, whether he would agree to drill, he answered: "I'd tell them to go to hell and I'd run away." As a BRO medical officer once told me: "BRO is more careful with ICPL [workers]: we are responsible for them." ICPL workers are seasonal migrants recruited in their region of origin; they arrive as a crew and are hired on a collective contract for a fixed period (four months in Ladakh), during which they cannot be laid off, and at the end of which their transport back home is paid for by BRO.

There was one occasion on which ICPL workers went on strike successfully because BRO did not provide them with enough water in the mornings. They also went on strike after the accident of August 2006. CPL personnel, I was told, could never do that, as they might easily be discharged.

However, the working conditions of BRO workers are by no means unusual in the world of road construction in India. Although laborers who work for civilian companies and contractors are not prohibited from forming associations,

their situation is far from compliant with the legal standards set by the main national regulations such as the Contract Labour (Regulation and Abolition) Act 1970 and the Payment of Wages Act 1936. Despite claims to the contrary, a study commissioned by the ILO in 1996 found that "hardly any worksite" complied with the requirements set by the ministries of labor and health with regard to minimum wages, gender equality, child labor, drinking water, toilets, shelter, and first aid (ILO, 1996). The situation was hardly better when workers were employed by local government agencies. The study also mentions the conclusions of the Working Group of the Planning Commission, 1995, which point to serious violations of labor standards at the same time as they reveal a lack of interest in seeing the labor standards applied:

> As of date, nearly a score of labour laws are applicable to construction sites all over the country. . . . The fact, however, is that none of these laws is implemented or followed even in its essentials. The primary reason seems to be that the laws themselves have little relevance to the realities of construction business and logistics of construction sites. (ILO, 1996: 25)

Similar reasons were cited when I visited the Labour Department in Ladakh in 2009: as the person in charge explained to me, "The Labour Department is not very active." People are posted to this department for only a year or two and therefore do not bother to learn the job or the relevant laws since they are there for such a short time. There is only one labor inspector for the whole district, and labor inspectors can easily be bribed when labor standards are violated. Most of all, as the person in charge told me: "Our labor laws are very strict, but if every law was implemented, contractors could not work in this country. Even BRO wouldn't be able to work." Hence, while rules exist, they are not implemented, and therefore, in the end, workers have no legal protection.

As this examination shows, the limited amount of bargaining power that workers—especially CPL workers—have is due to two sorts of factors: personal factors, such as family situation, resilience, and financial capacity, but also institutional factors. Such factors, whether legal (as in the absence of the right to form an association) or linked to inefficient protection mechanisms, contribute heavily to maintaining workers' vulnerability. They also fail to diminish the risks incurred by road workers, and they prevent workers from asking for safer and better working conditions. This might be aimed at "producing relative efficiency," as the director of BRO put it—although this is far from proven—but the result is that it fails to provide real benefits to workers and their families.

A fourth factor that is important to an understanding of Thinle's situation and his enduring acceptance of risk is the high cost of living that workers face while living on the road. In 2007, monthly wages were Rs3,000 and Rs3,700 for simple labor (for summer and winter, respectively), and Rs3,200 and Rs3,900 for a driller, which is high for India but slightly lower than what workers could expect for doing a similar job in the civilian sector in Ladakh. Yet, with

BRO, wages were paid all year long, even in winter when employment opportunities are scarce. As migrants had no access to rations at subsidized rates, they had to bear the heavy cost of food and fuel for heating: about Rs3,500 a month for a family and an additional Rs700 a month for kerosene in winter. For many road workers, the cost of living was simply too high. This was also the case for ICPL workers, who, in addition to being exploited by the company, had to cope with exploitation by the *mate*, who would charge them a high price for the food they consumed and for any item they could buy through him (mostly soap, toothbrushes, alcohol, and *beedies* [herbal cigarettes]). When adding other expenditures, ICPL workers could hope to save only a maximum of Rs4,000 to Rs6,000 in four months; this was just enough to provide for family expenses until the following spring, when they would migrate again to work for BRO.

Moreover, their meager savings were often used up in health-related expenses, and sometimes in gambling and drinking or in supporting relatives back home. Those who managed to save often did so because they did not depend solely on a single road worker's wage but earned multiple wages and sold *chang*, *raksi*, or commercially manufactured items, as in the case of Thinle and his family. Some workers also managed to save because they were involved in corruption networks with BRO officials, selling diesel, rations, equipment, and construction material, or were very skilled at playing cards, which could rightfully be considered a livelihood activity in Chilling. Corruption is quite widespread on the road, according to the workers I interviewed, and only a few cases are reported in the press. Workers cited several cases in which they had directly observed corruption or in which quantities of working material, rations, and fuel were not monitored and disappeared. In Zanskar, for example, the BRO camp is the only available source of diesel in the whole valley and is notorious for providing diesel to other inhabitants. Corruption was also clearly evident in the quality of the construction of buildings and retaining walls: because the ratio of cement to sand is too low, pieces of wall break off if rubbed by hand, and walls have to be rebuilt after two years. To a large extent, corruption benefits officers, but it also necessitates the help of workers in making the material available and carrying it to external buyers. Workers who had won the confidence of officers and were involved in such operations could earn a hefty amount from corruption, often twice their wage.

Thus, on one hand, the high level of expenditures in comparison to low wages keeps workers vulnerable and dependent on the company. On the other hand, other possibilities of gain explain why many workers who want to quit their jobs eventually stay longer as they are earning more than they might in most other jobs. But there are few people in this category. A parallel can be drawn with the camp system that supplies the workforce for South Louisiana's offshore oil and gas industry, whose existence is "driven primarily by the marginality of the workers" and depends on the reproduction of "the continuities between work and poverty for [a] marginalized underclass" (Higgins, 2005: 12). Migrants working for BRO are small peasants at home, partly self-sufficient and partly

integrated into market relations. Working on the road provides them with a means to meet the basic needs of their families but not more, as potential savings are sucked into diverse expenditures, living costs, payments to the *mate* and officers (particularly during the recruitment process), alcohol consumption, gambling, and so forth. As their gains remain marginal, in the end, many workers are left with little choice but to migrate to other construction sites and continue working for the company, so that BRO benefits from a limitless pool of construction workers.

A final, decisive factor is the dangerousness of the task itself and the widespread view that casualties are unavoidable in road construction in difficult terrain (see, for instance, Tan [1945] on the Burma road or Ispahani [1989] on the Karakoram Highway). As BRO proudly states on its official Web site:

> Let us not forget that roads in this difficult terrain have been built not only with mere cement and concrete, but also with the blood of men of the Border Roads Organisation of India. Many lost their lives for the cause of duty on the project. To these men, who always play with danger and laugh at death, duty comes first.

I was often reminded of this view by BRO officers. As a BRO supervisor once put it: "Because it [the road] is built for defense, it has to be completed. For every worker who dies, BRO will recruit 50 others." Casualties were truly seen as inevitable: they did not even seem to enter people's calculations in the decision to build bridges or whether or not to avoid a dangerous area; if they did enter the calculations, it was only in terms of compensation. As an engineer said: "Accidents can happen. But roads are more important for the army and to develop the country. Road construction accidents happen anywhere." Casualties were seen as a price to pay, and it seemed that some people had to be sacrificed for the road. In the business of road construction, death becomes normalized.

This factor was aggravated by the choice of construction methods and the necessity of building the road in the allocated time. After an explosion, the surrounding cliffs are seriously weakened, so that the worst rock falls generally happen not during the explosion but minutes or hours later and at a time nobody can predict. The pace of construction lagged behind the targets set and the road had to be built quickly. As a result, workers had to start drilling right after explosions while the rocks were still unstable, the rock walls had not been cleared properly, and only ineffective protective measures (such as blowing a whistle to warn drillers of rock falls) were in place. Most accidents happened in such conditions; inevitably, more will happen until the road is completed.

Chilling in particular is known among workers as a dangerous place. Many workers have died there, although it was impossible to obtain exact figures. Many rumors circulated among workers, stories were transmitted from one worker to the next, and the figures given by the company itself were inexact. When I arrived, I was told by a BRO staff member that 13 workers had died in one year in the 1990s, forcing the PWD to stop construction. Yet these figures were never

confirmed by the inhabitants. On the contrary, in Ladakh, accidents that affect migrants are quickly forgotten and erased from collective memories. During my fieldwork in Chilling from August 2006 to October 2008, seven people died in four separate accidents. Two of these casualties were not recorded by BRO, and there is evidence from the body count published in its monthly newsletter that many CPL casualties are not even disclosed. In 2002, an article estimated that "at least" 124 lethal accidents had affected BRO workers in Ladakh over the previous 15 years, a figure that is probably far below the reality (Sharma, 2002). In 2010, the Indian parliament expressed its concern regarding the high fatality rate among BRO workers: nine fatalities every 10 days or 330 fatalities every year, "which is higher than the fatality rate of any army battalion in J&K" (Press Information Bureau, 2010). BRO's regular employees also die on roads, but the majority of fatalities are casual workers, most of them migrants.

These are some of the factors that affect most migrant workers living on the road. They help us understand the presence of migrant workers on the road, the risks they are subjected to, their acceptance of these risks, and ultimately the violence they confront. Working and living conditions also explain why road construction, despite being presented as a development tool aimed at providing employment and redistributing income, actually fails to benefit workers. In Chilling, workers were kept in a situation of precariousness, their bargaining power limited by personal and institutional factors, their gains insufficient in relation to high living costs, and the tasks assigned too dangerous. Most workers did not manage to save anything, so that their well-being improved only temporarily or marginally, or stagnated. Thinle's family was one of the few for whom I had hope, because they had managed to save and had plans to leave Chilling, but this hope vanished with the death of Thinle.

CONCLUSION: A SEARCH FOR SOLUTIONS

Paradoxically, whereas one of the alleged purposes of road construction is to provide employment, generate livelihoods, and alleviate poverty, the case of migrant workers on the Zanskar Highway shows that they see no improvements or only marginal improvements in their well-being. The reason for this, I argue, is that their agency is constrained by exploitative conditions and structural factors that in many cases prevent them from benefiting from the redistributive effects of road construction. However, this does not need to be so. Road construction could truly be used as a poverty alleviation tool, and the exploitative conditions and structural factors I have identified also enable us to point at potential means to improve the lot of this category of workers.

Through the life history of Thinle and the experience of other workers, I have identified five main sources of vulnerability. The first one was the situation in Nepal, and the country's long history of labor outmigration. The idea here is not to consider "migration" as a problem in itself: not all migrations are distress

migrations, migrations are often motivated by factors other than economic, and as Ellis (2003) writes, mobile populations tend to be the norm in human history rather than the exception. Yet it is also evident that for most workers, the situation in the country or state of origin appears as one of the main reasons to migrate. For Nepalese, migration was often motivated by civil war and its economic consequences. Among workers from Dumka, the main reason cited was economic and had to do with the absence of livelihood opportunities in Jharkhand. Jharkhandi workers were aware of the fact that the company recruited workers in the state because it was poor, badly governed, and corrupt; they wished the central government would spend as much in Jharkhand as it did in J&K. Migration was often a consequence of political instability and underdevelopment. As many workers told me when asked what could be done for them: "if you want to do something for us, do it at home."

The situation in these two regions is eminently complex, and attempting to solve the problems of Nepal and Jharkhand is clearly beyond the scope of this article (and beyond my ability), but one can see in the Indian National Rural Employment Guarantee Act (NREGA) an interesting embryo of a solution to rural underemployment. Since 2006, the act has been providing a guarantee of 100 days of employment per year to rural households at a minimum wage in the states in which it has been implemented. It mainly targets rural unskilled manual laborers and households living below the poverty line, by creating employment locally when labor requirements in agriculture are low; at the same time, it creates productive assets (notably roads, irrigation ponds, dams, etc.). The program also encourages people's mobilization and informs workers of their rights. Naturally, the implementation of NREGA has its shortcomings (see, for instance, Sjoblom & Farrington, 2008), but there also seems to be evidence that, thanks to the scheme, "wages are rising, migration is slowing down, productive assets are being created, and the power equations are changing too" (Drèze & Khera, 2009: 3). The scheme largely benefits the most disadvantaged households, enabling them to avoid migrating for work, to cope with illness, or to send children to school. Hence, NREGA appears to be one potential solution: by increasing employment possibilities it would decrease distress migrations, leaving workers better informed of their rights and in a stronger position to negotiate their wages and employment conditions. And evidence shows that the scheme creates labor shortages for the BRO, "depleting BRO's traditional labour pool" and making workers reluctant "to leave their villages for the gruelling manual work involved in building border roads" (Shukla, 2011).

The second and third factors identified in the article were the precariousness of work and the limited amount of bargaining power and narrow margin of maneuver workers have, which contribute heavily to maintaining workers' vulnerability. This is due to two sorts of factors: personal and institutional. Precariousness of work and a limited amount of bargaining power is often the lot of migrants, who are not necessarily informed of their rights, do not know where to go to complain,

and have no political representation, in contrast to local workers. Also, they are often hardly considered and cheated. In the case of BRO workers, the situation is worsened by the interdiction against forming associations, the absence of political rights, the lack of trade unions and the instances of control, the inefficiency of the labor office, and the fact that labor regulations exist but are not applied. Realistic labor regulations should be adopted with the aim of having them implemented, and labor conditions should be monitored.

The fourth factor was the high costs workers have to bear while living on the road. Wages are low in relation to living costs, gains are sucked away in expenditures, and the situation also contributes to the maintaining of workers in a vulnerable position and in a situation of dependency vis-à-vis the company. Workers mentioned that their wages were too low given the tasks and risks involved and the cost of living. Low wages also result in resources being wasted: if workers were better paid, human resources would be more efficiently employed. Also, promised rations should be delivered, along with better housing and better living conditions for the workers and their families. When asked what should be done, workers mainly revealed their anxiety about their children, as they did not want the children to suffer as the parents did. Schools (or transport to village schools) and childcare are needed, especially when young mothers are forced to work on the road in order to make a living. But for living and working conditions to improve, once again the immense "casual" workforce of BRO should be allowed to organize itself politically, and the situation of casual workers should be regularized. Presently, the situation is in the balance: that the Supreme Court raised the issue in March 2011 and denounced BRO's "unfair labour practices" may be received with a lot of hope ("SC chides Centre," 2011; Venkatesan, 2011); that the central government has endorsed BRO's labor policies in a case that has been pending since 2001 appears less promising.

The fifth factor was the dangerousness of the task and the view that casualties are unavoidable in road construction. Given the nature of the work and the type of environment found on the Zanskar Highway, casualties are inevitable. However, many could be avoided. Inexperienced and untrained workers are sent into dangerous situations, without proper equipment, in which survival depends merely on luck. Training and equipment could be provided; simple mountaineering techniques could be used to secure workers and clear slopes before drilling; when the slope is too unstable, tunneling techniques could be employed; and when accidents happen, proper medical facilities should be provided. These could significantly reduce the rate of casualties on the road.

This article has largely been organized around a central paradox: roads are built in order to provide employment, but working conditions tend to perpetuate a situation of precariousness, dependence, and exploitation, so that workers do not benefit from road construction. I hope the article has shed some light on the reasons for that paradox. When I point to certain factors and label them as *structural*, I do not want to sound fatalistic: the agency, ingenuity, and sense of

solidarity that prevail among most workers should be trusted. But to enable workers to develop their full potential and to use road construction as a real development tool, fair conditions should first be set in place. A great deal could be done: first, to reduce the workers' suffering; and second, to ensure they also benefit from road construction. I hope this article has also made a contribution to the search for solutions.

REFERENCES

Booth, D., Hanmer, L., & Lovell, E. 2000. Poverty and transport: A report prepared for the World Bank in collaboration with DFID. Retrieved from http://www.odi.org.uk/resources/docs/3554.pdf, December 2011.

BRO. 2008. About the Border Roads Organisation. Retrieved from http://www.bro.nic.in/indexab.asp, October 2008.

BRO. 2009. *Standard Operating Procedure for processing of claims of ex-gratia payment for casual paid labourers working in Border Roads Organisation.* New Delhi: BRO.

Central Road Research Institute. 1963. *History of road development in India.* New Delhi: CRRI.

Dalvi, M. Q., & Verma, M. C. 1984. Employment in transport: A case study of India. *Transport Reviews,* 4: 231-244.

"Defence civilians to observe July 13 as 'protest day.'" 2001. *Daily Excelsior* (Jammu), June 12.

"Demands of CPLs of BRO highlighted in rally." 2003. *Daily Excelsior* (Jammu), February 12.

Drèze, J., & Khera, R. 2009. The battle for employment guarantee. *Frontline*, 26(1): 4-17.

Edmonds, G., & Howe, J. D. G. F. 1980. Appropriate road construction technology and the institutional framework. In G. Edmonds & J. D. G. F. Howe (Eds.), *Roads and resources:* 13-21. London: Intermediate Technology Publication.

Ellis, F. 2003. A livelihoods approach to migration and poverty reduction. Retrieved from http://www.uea.ac.uk/polopoly_fs/1.53417!2003%20livelihoods%20migration.pdf, December 2011.

Farmer, P. 1997. On suffering and structural violence: A view from below. In A. Kleinman, V. Das, & M. M. Lock (Eds.), *Social suffering:* 261-283. London: University of California Press.

Farmer, P. 2004. An anthropology of structural violence. *Current Anthropology,* 45: 305-325.

"Foundation stone laid for all weather alternate road to Ladakh." 2002. *Daily Excelsior* (Jammu), August 13.

Galtung, J. 1969. Violence, peace, and peace research. *Journal of Peace Research,* 6: 167-191.

Government of India. 1997. 9th Five-Year Plan (Vol.2). Retrieved from http://planning commission.nic.in/plans/planrel/fiveyr/9th/vol2/v2c7-6.htm, December 2011.

Higgins, R. 2005. Bodies for rent: Labor and marginality in southern Louisiana. *Anthropology of Work Review,* 26(3): 12-22.

ILO. 1981. Complaints against the Government of India. Retrieved from http://www.ilo. org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=4038&chapter= 3&query=India%40ref&highlight=&querytype=bool&context=0, December 2011.

ILO. 1983. Complaints against the Government of India. Retrieved from http://webfusion. ilo.org/public/db/standards/normes/libsynd/LSGetParasByCase.cfm?PARA=3224& FILE=995&hdroff=1&DISPLAY=INTRODUCTION#INTRODUCTION, December 2011.

ILO. 1996. Construction and maintenance of rural roads by the public and private sectors. Retrieved from http://www.ilo.org/public/english/employment/recon/eiip/download/ constr_maint.pdf, December 2011.

Ispahani, M. Z. 1989. *Roads and rivals: The politics of access in the borderlands of Asia.* London: Tauris.

"Jora commends BRO for maintaining vital links, stresses on labour welfare." 2004. *Daily Excelsior* (Jammu), February 9.

Ministry of Rural Development & Planning Commission. 2006. Working Group on Rural Roads in the 11th Five-Year Plan, final report. Retrieved from http://planning commission.nic.in/aboutus/committee/wrkgrp11/wg11_rroad.pdf, December 2011.

NCAER. 1974. *Employment in road transport and road construction.* New Delhi: National Council of Applied Economic Research.

Noatay, K. L. 1999. Well done, BRO. *The Tribune* (Chandigarh), October 2.

Porter, G. 2002. Living in a walking world: Rural mobility and social equity issues in sub-Saharan Africa. *World Development,* 30: 285-300.

Press Information Bureau. 2010. BRO to hire helicopter agencies to expedite road construction in Arunachal border. Retrieved from http://pib.nic.in/newsite/erelease.aspx? relid=57129, Decenber 2011.

Rizvi, J. 1999. *Trans-Himalayan caravans.* New Delhi: Oxford University Press.

"SC chides Centre for its 'anti-labour' policy." 2011. Retrieved from http://news.outlook india.com/item.aspx?715986, December 2011.

Seddon, D. 2011. Nepal's dependence on exporting labor. Retrieved from http://www. migrationinformation.org/Feature/display.cfm?id=277, February 2011.

Seddon, D., Adhikari, J., & Gurung, G. 2002. Foreign labor migration and the remittance economy of Nepal. *Critical Asian Studies,* 34: 19-40.

Sharma, R. 2002. Land of passes made passable. *The Tribune* (Chandigarh), 26 October.

Shukla, A. 2011. Pawan Hans grounding stalls China border roads. *Business Standard* (New Delhi), May 8.

Sjoblom, D., & Farrington, J. 2008. *The Indian National Rural Employment Guarantee Act: Will it reduce poverty and boost the economy?* London: Overseas Development Institute.

Soin, M. G. J. S. 1980. The Border Roads Organisation in India: Labour-intensive construction on a large scale. In G. Edmonds & J. D. G. F. Howe (Eds.), *Roads and resources:* 156-165. London: Intermediate Technology Publication.

SSATP. 2007. The SSATP Long Term Development Plan output to purpose review. Retrieved from http://siteresources.worldbank.org/EXTAFRSUBSAHTRA/Resources/ OPR-Report.pdf, December 2011.

SSATP. 2008. SSATP annual report 2007. Retrieved from http://www4.worldbank. org/afr/ssatp/Resources/SSATP-ProgramDocuments/SSATP-Annual-Report-2007.pdf, December 2011.

SSATP. 2011. Employment generation. Retrieved from http://web.worldbank.org/WBSITE/
    EXTERNAL/COUNTRIES/AFRICAEXT/EXTAFRREGTOPTRA/EXTAFRSUBSAHTRA/
    0,,contentMDK:20625636~menuPK:1532102~pagePK:64168445~piPK:64168309~
    theSitePK:1513930,00.html, December 2011.
Tan, P.-Y. 1945. *The building of the Burma Road.* London: Whittlesey House.
"Termination of services of 306 CPLs by BRO justified." 2005. *Daily Excelsior* (Jammu),
    February 4.
Venkatesan, J. 2011. Court: Keeping workers permanently temporary ill behooves govern-
    ment. *The Hindu* (New Delhi), March 27.
"Wages for BRO workers released." 2008. *The Tribune* (Chandigarh), May 21.

Direct reprint requests to:

Jonathan Demenge
Institute of Development Studies (IDS)
University of Sussex
Brighton, BN19RE, UK
e-mail: jon.demenge@gmail.com

THE INDENTURED MOBILITY OF MIGRANT WOMEN: HOW GENDERED PROTECTIONIST LAWS LEAD FILIPINA HOSTESSES TO FORCED SEXUAL LABOR

RHACEL SALAZAR PARREÑAS
University of Southern California, Los Angeles

In 2004, the U.S. State Department labeled migrant Filipina hostesses as sex trafficked persons. As the U.S. *Trafficking in persons report* (U.S. Department of State, 2004: 14) claimed,

> On arrival at their destination, victims are stripped of their passports and travel documents and forced into situations of sexual exploitation or bonded servitude. . . . For example, it is reported that Japan issued 55,000 entertainer visas to women from the Philippines in 2003, many of whom are suspected of having become trafficked victims.

The phrase "trafficked victims" conjures up images of people who are held against their will, shackled, and unfree. Yet the definition of trafficking that has been advanced by the United Nations is more specific but at the same time much broader than enslavement. Trafficking consists of a three-part process: it must entail, first, the transportation of an individual; second, transportation that takes place under conditions of fraud, or that is forced, or that involves deception; and third, transportation for the purpose of exploitation, with exploitation specifically meaning sexual exploitation, enslavement, forced labor, or servitude (United Nations, 2000: Article 3).

 The identification of migrant Filipina hostesses as trafficked persons has directly affected their migration, resulting for one thing in a drastic decline in their numbers by around 90%, from more than 82,000 in 2004 to 8,607 by 2006 (Parreñas, 2010). While many would see this decline as a victory in the war on trafficking, I actually see this as a step backward for Filipino women. It has

threatened the advancements that they have made in labor migration, limiting their employment options and forcing their return to the Philippines. Identifying migrant Filipina hostesses as trafficked persons inadvertently results in their disempowerment, because it calls for their return migration. As trafficked persons, they are seen as victims of a crime as well as unwilling participants in their employment. The solution is thus seen as plucking them out of their situation, in other words, removing them from their source of income.

In this essay, I would like to reconsider how we understand the subjugation of migrant Filipina hostesses, calling attention to their state of unfreedom but rejecting the view of this state as one of trafficking. I propose that we think, instead, of their migration as constituting not trafficking but *indentured mobility*. Indentured mobility refers to the process of migration as producing economic mobility at the cost of the migrant becoming an unfree laborer. The term indentured mobility acknowledges the state of unfreedom of migrant hostesses, specifically their relationship of servitude to middleman brokers, but at the same time it recognizes the compliance of migrant hostesses and their conscious decision to place themselves in a position of indenture upon migration.

This essay begins with an illustration of the state of unfreedom of migrant Filipina hostesses, showing how their process of migration places them in relationships of indenture with various middleman brokers in both the Philippines and Japan. Then, it situates the experiences of migrant Filipina hostesses in the framework of human trafficking, illustrating the dangers of identifying Filipina hostesses as trafficked victims and presenting an alternative framework for understanding their subjugation as one of indentured mobility. The essay ends with recommendations for future research on labor migration in the 21st century.

THE QUESTION OF TRAFFICKING

Let me now make the case for my belief that the identification of Filipina hostesses as trafficked persons has not helped them but instead hurt them as migrant women. I want to start with the story of Amy, one of the many hostesses I met in Japan while I was doing fieldwork for nine months in 2005 and 2006. I intentionally share the story of Amy, because as an underage hostess she technically fits the U.S. definition of a "severely trafficked person." According to the U.S. Trafficking Victims Protection Act of 2000, otherwise known as TVPA, "The term 'sex trafficking' means the recruitment, harboring, provision, or obtaining of a person for the purpose of a commercial sex act."

This means, then, that regardless of consent, under this definition, a migrant worker who engages in prostitution will be considered a sex trafficked person. But the United States does distinguish a sex trafficked person from a severely trafficked one. According to TVPA, "severe forms of trafficking" refer to "(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such acts has not attained 18 years of

age; or (B) the recruitment, harboring, transportation provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

Amy is a first-time contract worker in Japan who turned 18 years old not long after I met her. She started working as an entertainer, that is, a hostess, in Japan when she was 17 years old. Amy fraudulently entered Japan with the use of her older sister's passport, but no one coerced or forced her to do so. On the contrary, it was Amy who was quite determined to venture to Japan before she turned 18 years old. She did so in order to assist her parents financially.

Amy grew up as a member of the working poor in Manila. Her now 56-year-old mother has been a homemaker for as long as Amy can remember, and her father, whose age she does not know, hardly makes ends meet with his daily earnings as the driver of a passenger jeepney, a jitney bus used in the Philippines for public transportation. Like Amy, most hostesses are from the poorest of the poor in the Philippines. They pursue work in Japan in order to escape their life of dire poverty. Many grew up picking through garbage for food, selling cigarette sticks in bus terminals, and cleaning car windows in heavy traffic. Amy peddled pastries at a bus stop. According to Amy, the only way she could have escaped her life of extreme poverty in the Philippines was to pursue hostess work in Japan. Without financial resources, most other migrant employment opportunities were closed to her. For instance, she could not afford the US$3,000 to US$5,000 fee she would have needed to secure employment as a migrant domestic worker in Hong Kong or Taiwan. Prospective migrant domestic workers do not have to pay a placement fee if they are placed to work in non-coveted destinations such as Jordan, where migrant employment pays little and workers are known to be susceptible to abuse (Lan, 2006). Yet even if she could have afforded the fees imposed on domestic workers, Amy had no desire to become a domestic worker, seeing such work as more difficult and dangerous than hostess work. For Amy, domestic work is made more dangerous by the fact that one has to work in the isolated space of a private home.

Securing a job as a hostess in Japan—while desirable—is difficult. Prospective migrant hostesses must undergo a highly selective audition in which they have to compete with around 200 other women for a handful of slots. At the auditions, which are held by various promotion agencies in Manila, prospective hostesses are judged not on the merits of their talent but instead on their looks. Prospective migrants do not have to sing or dance at an audition but must instead look more attractive than the hundreds of other women around them. The local staff of the agency along with a Japanese job recruiter physically evaluate prospective migrants at an audition, where women parade in front of them in a straight line as they would in a beauty contest.

Amy had to undergo an audition at least three times before she was finally chosen to go to Japan. She describes her slew of auditions as a disheartening

process, one in which she had to undergo a series of rejections that she managed to survive only with the emotional support of the woman who had designated herself as Amy's " talent manager." Amy's manager basically acted as her job coach, teaching her how to dress and apply makeup. In exchange for her services, the manager would receive at least 50% of Amy's salary, not only for Amy's first contract but apparently for her next six. Upon signing a contract agreeing to be one of her manager's "talents," Amy also had to agree to the completion of six contracts in the next few years. However, securing six job contracts is not easy. Neither is it automatic. Unless Amy is requested by her club to return for another six-month contract, she will have to go through another round of auditions in various promotion agencies.

It is not only Amy's manager in the Philippines that is entitled to a portion of her salary. Also entitled to a portion are the promotion agency in the Philippines and the job recruiter, otherwise known as the promoter, in Japan. Between the two of them, they can legally obtain up to 40% of Amy's salary. For a number of reasons, a club in Japan technically cannot employ Amy; as I will explain later, the promotion agency in the Philippines and the job recruiter in Japan are her official employers. In most cases, a club will pay the job recruiter and the promotion agency the salary of entertainers such as Amy prior to their arrival in Japan, but the recruiter and the agency in turn will withhold this salary from the entertainer until her very last day of work. In fact, Amy has yet to be paid any of her earnings although she has already worked in Japan for at least four months. Amy will not be paid the wages given by the club owner to her job recruiter until her very last day on the job. To survive, she lives off the tips she receives from customers, the commissions she receives every 10 days for her sales, and a daily food allowance of 500 yen, or US$5, that she receives from the club owner. Some advocacy workers in Manila have said that the practice of withholding wages forces entertainers such as Amy into prostitution. Also making Amy vulnerable to forced labor is the fact that the job recruiter in Japan has confiscated her passport. He told Amy that he will return the passport to her at the airport after she completes her six-month contract. Without her passport, Amy is discouraged, even prevented, from leaving her job. Yet Amy likes her job and has no qualms about having her passport withheld. However, she does realize that being without a passport could pose a problem if she ever wants to quit her job prior to the end of her contract.

Amy earns far below the minimum wage of 200,000 yen per month, approximately US$2,000, for migrant workers with an entertainer visa. Instead, she earns only $500 per month, which is the average salary for first-time contract workers. Like Amy, most migrant entertainers from the Philippines cannot explain the precise distribution of their earnings, but they know that various middlemen shave off a portion of their earnings as a commission for their services. Disgruntled by her small salary, Amy admits to selectively engaging in paid sex with customers. She has sex only with customers she finds physically attractive.

Amy tells me she does this in order to guarantee that she will amass some financial gain from her time in Japan. She knows that relying solely on her salary will not get her far. Interestingly, some of Amy's coworkers ostracize her, as most of them will not engage in commercial sex, suggesting that Amy's actions are the exception and not the norm among Filipina hostesses in Japan. Amy's actions do raise the question of whether or not she is a "severely trafficked person" as defined by the United States, not only because she is underage but also because it was her salary reductions that pushed her into sex work in the first place. Some would say yes, but Amy herself would say no and insist that it was her own choice to engage in commercial sex.

Without doubt, entertainers such as Amy should be given the right to quit their jobs when they wish to do so. They are without this right because of the stranglehold of middlemen brokers over their migration process. What explains this stranglehold? Why can't clubs in Japan directly employ entertainers such as Amy? How can middlemen brokers withhold Amy's salary until her last day, when they receive all of Amy's salary in advance prior to her arrival in Japan? Why are middlemen brokers in Japan and the Philippines entitled to at least three-quarters of her salary? Let me address these questions by explaining the migration process for entertainers.

THE PROCESS OF MIGRATION

As we see in the case of Amy, the migration of Filipina hostesses to Japan is not as simple as going from A to B; instead it involves various middlemen brokers. The presence of most of these brokers is legally mandated by the Philippines, which put in place certain laws designed to protect hostesses while they are in Japan. In her cross-country study of migration policies in the sending countries of Asia, sociologist Nana Oishi (2005) noted that "value laden policies" control the mobility of women. Countries limit the kinds of jobs women can pursue, impose age requirements on certain jobs, and require the authorization of men for women to leave the country. In contrast, the sending countries do not make similar regulations with regard to the emigration of men. In similar fashion, the Philippines regulates the movement of migrant entertainers to Japan and controls them with what we might call "value laden policies" but what I prefer to call "gendered protectionist policies," as they are not just value driven but are instituted to protect women from harm when they venture into the migrant labor market. These policies include, among others: (1) the requirement that the labor conditions of migrant entertainers in Japan abide by the labor standards existing in the Philippines; and (2) the requirement that prospective Japanese employers hire at least 50 entertainers per year. Both policies are intended to discourage the abuse of migrant entertainers in the workplace, the latter policy supposedly preventing entertainers from landing in fly-by-night operations, but the policies ironically leave them vulnerable to abuse. Let me explain.

To ensure that clubs in Japan comply with Philippine labor laws, the Philippine government requires prospective migrants to arrange their employment through a local promotion agency in the Philippines, one that has been granted a Special Power of Attorney by the prospective Japanese employer. This means that club owners cannot hire entertainers directly. The Philippine government requires a local promotion agency to broker the labor migration of the prospective migrant, for the supposed purpose of protecting the migrant from unscrupulous employers in Japan. In recent years, the Philippine government has accredited 322 promotion agencies, not only to train and deploy but more importantly to employ migrant entertainers in Japan (Villalba, 2002). Accreditation to become a promotion agency requires initial capital of 2,000,000 pesos (approximately US$50,000), the operation of a TESDA-certified training program, and, finally, proof of a Special Power of Attorney granted by a Japanese employer to hire on its behalf a minimum of 50 overseas performance artists from the Philippines per year (Philippines Overseas Employment Administration, 1997). With regard to migrant entertainers, "academic training" interestingly refers not to their aptitude but instead to their moral values. According to Villalba (2002: 24–25), "academic training is designed primarily to help dancers in their early twenties, who perform on stage in a club or hotel from evening till dawn, to manage their unique and hazardous work environment. Contents of the academic training include positive and appropriate values, behavior and attitudes development, communication and language skills, good grooming and social graces, spirituality and human relations. In other words, women are taught to 'entertain' the male audience without sexual services."

In Japan, most clubs employ no more than 25 overseas performance artists, which consequently means that most clubs *cannot* directly hire prospective migrants, even through a promotion agency in Manila. To circumvent the requirement of a minimum of 50 hires per annum, hostess clubs have resourcefully turned to Japanese middlemen, that is, job recruiters or promoters. Working as additional middlemen, such persons will hire at least 50 entertainers in the Philippines per year and then assign them to work in different clubs in Japan, thus operating like the "body shops" that supply Indian information technology workers to businesses in the United States and Australia (Biao, 2006).

In his book *Global "Body Shopping,"* Xiang Biao (2006) describes "body shopping" as a system of subcontracting in high technology. Body shops function like temporary placement agencies that assign migrant employees to companies on a short-term basis. Under this arrangement, the body shop remains the official employer of the workers, and as such maintains responsibility for their temporary work visas, salary, and accommodations. A similar scenario of subcontracting occurs in the nightlife industry of Japan. In the case of Japan, foreign entertainers are not employed by the clubs where they work but technically by the middlemen, that is, the promotion agency and job recruiter, who place them at a club in Japan. On behalf of the promotion agency in the Philippines, the job recruiter is

responsible for finding an eligible place of employment for the entertainer, providing the entertainer with transportation to and from the airport at the beginning and end of her contract, and escorting her to the club officially listed as her workplace at the Office of Immigration in Japan. Not all clubs are eligible to hire foreign entertainers. For instance, eligibility is restricted to clubs with, among other things, a stage, five full-time employees, and an operator with three years of experience working with foreign entertainers. For a fuller description of the guidelines for the recruitment of foreign entertainers into Japan, see chapter 1 of Parreñas (2011).

Middlemen brokers ironically emerge from the impulse of the state to morally protect overseas performance artists from harm. However, the state's impulse to protect entertainers results in their unequal dependence on brokers, who, instead of overseeing the legality of entertainers' migration, actually enforce the legality of their abuse and indenture.

THE VULNERABILITY OF MIGRATION: INDENTURE

Middlemen brokers bind entertainers to a relation of indenture in many ways. First, job recruiters do not compensate entertainers for their labor until their very last day in Japan, literally at the airport soon after they check in for their return flight to the Philippines. In other words, they do not financially compensate entertainers for their labor during the entire time in which they are contract workers in Japan. The withholding of wages by promoters (who notably have been paid in advance by club owners) not only deters entertainers from quitting prior to the end of their six-month contract but also puts them at risk of never getting paid or being unable to contest any questionable wage deductions imposed on them. Second, job placers deter entertainers from quitting by withholding their passports and thus restricting them to an alien registration card as their only proof of legal residency in Japan. Third, entertainers must sign a legal document with the promotion agency in the Philippines prior to their departure, stipulating that they will incur the severe penalty of 150,000 to 200,000 pesos, approximately US$3,000 to 4,000, if they renege on their contract in Japan; the low end of this penalty reflects an amount equal to the cumulative earnings of most entertainers completing a six-month contract (Parreñas, 2008, 2011). Amy for one had to sign such a document. Promotion agencies hold entertainers accountable with regard to this fee by having them sign a blank check prior to their departure and/or by collecting the funds from their families in the Philippines.

Why do promotion agencies wish to deter hostesses from quitting? Basically, they do not want to lose their commission from the labor of hostesses. Also, they do not want to have to pay back to the club the hostess's salary that the club already gave to the agency prior to the arrival of the migrant hostess in Japan.

The way the system works is this. A club wishes to hire a migrant hostess, but cannot. The club has to go through a broker to do so. The club pays this broker the entire salary of the hostess before she arrives at the club. This broker—who does not want to give this money back to the club—withholds the salary of the hostess until her last day in Japan so that she will not quit.

In addition to the promotion agency, it is also the talent manager who binds entertainers to a relationship of indenture. Prior to escorting an entertainer to her first audition, the talent manager usually forces the prospective migrant into a contract stipulating that the manager will receive a sizable percentage of the migrant's earnings in the next three to five years.

One could argue that middlemen brokers, by indenturing migrant entertainers, force them to abdicate their freedom when they migrate to Japan. When migrant entertainers choose to enter an indentured relationship with brokers and are stripped of the freedom to quit their jobs, one could argue that they are technically agreeing to a slave contract. Many would argue that indenture, regardless of context, is nothing but indenture. As John Stuart Mill, quoted in Pateman (1988: 74–75), argues, "he abdicates his liberty; he foregoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. . . . The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom." Following Mill's argument, the abdication of freedom when agreeing to indenture translates to enslavement.

However, prospective migrants might see advantages, particularly in terms of financial mobility, provided by their relationship of indenture with middlemen brokers. This mobility would not be available to the migrants if they were to stay in the Philippines, where they would face a life of abject poverty. Choosing between indenture and poverty, migrant entertainers evaluate their limited choices and make the "autonomous" decision to agree to a relationship of indenture with middlemen brokers. In examining the position of migrant Filipina entertainers, we need to recognize that the entertainer is a freely consenting person who has acted of her own will. Saba Mahmood (2005) makes a similar assertion in her theorizations of women who choose to reject secularism in Egypt. A Filipina entertainer has made the illiberal choice as an autonomous person to become indentured and in so doing "has accepted subservience" (Christman, 2001: 206) for a few years in exchange for the opportunity to earn money in Japan. While many of us would be uncomfortable with her illiberal choice to become subservient, we cannot deny that she had the attributes of autonomy when making that decision—"normal cognitive function, basic perceptual and inferential abilities, and those reasoning capacities considered basic to elementary thinking and reflection" (Christman, 2001: 201). As an autonomous person, a migrant Filipina entertainer is one who *freely* chooses to sign herself into a relationship of indenture with middlemen brokers.

CONCLUSION

I have tried to illustrate the vulnerability of migrant Filipina entertainers to what we know as human trafficking. This vulnerability has resulted in their identification as trafficked persons and consequently has led to a drastic reduction in their numbers. In other words, it has led to their "rescue," which is the universal solution advocated by the United States in its war on trafficking. The United States—in its war on trafficking—has imposed a top-down universal solution—forcing countries to implement the solutions of the 3Ps and the 3Rs. The 3Rs are "rescue, rehabilitation, and reintegration," and the 3Ps are "prosecution, protection, and prevention." Countries that fail to design a solution to trafficking that abides by these two models are presented as pariahs in the annual *Trafficking in persons report* released by the U.S. Department of State.

The drastic decline in the number of Filipina hostesses surely suggests a victory in the war on trafficking. However, many of the Filipina entertainers I met in Japan resent the intervention of the United States in their lives and reject the "rescue" solution that has been imposed on them. For them, working in Japan has been their sole path of economic mobility from their life of abject poverty in the Philippines. In their perspective, their identification as trafficked persons and the consequent denial of their reentry to Japan has not constituted their rescue; instead it has resulted in the eradication of their occupation.

What do we make of these conflicting views? Without doubt, it forces us to revisit the construct of human trafficking and the "rescue" solution that has been advocated by most antitrafficking groups. Migration arguably strips migrant hostesses of their freedom and autonomy. Hostesses who enter Japan are subject to middlemen brokers who place them in a relationship of debt bondage, which in turn discourages them from quitting their job prior to the end of their contract. Middlemen brokers withhold their passports in both the country of origin and the country of destination, retain their salaries until the end of their three- or six-month contract, and penalize those who quit before their contract ends. All of these examples suggest that migrant Filipina entertainers are nothing but trafficked persons. However, this "nothing but" perspective strips entertainers of their agency, fails to consider their choice to enter a relationship of indenture, and discounts the financial gains that they make, even as indentured persons.

Does indenture, however, automatically result in trafficking? Is it indicative of human trafficking? An indentured worker who wishes to quit her job but is unable to will constitute a trafficked person. But what if the indentured worker does not wish to quit her job? Is Amy, for instance, a trafficked person? We should acknowledge that vulnerability to trafficking does not always result in trafficking. If we are to recognize the vulnerability to trafficking of migrant entertainers, then the challenge for us is to construct policies that will increase their control over their labor and migration. Rescuing them and barring them from their employment, the antitrafficking solutions currently in place, do not increase

migrant entertainers' control. Instead, they merely strip migrant workers of their agency, reject the idea that hostess work is viable labor, and deny migrant Filipina workers the option to become hostesses in Japan. Rescue does nothing but disavow their identity as labor migrants.

While I have trouble with reducing our understanding of Filipina migration to Japan as one of trafficking, I do not think that we can simply call the Filipina hostesses "labor migrants." Doing so would disregard the severe structural constraints that hamper their autonomy in migration. The fact is that the binary categories we currently have for thinking about the migration of Filipina hostesses—either as free subjects (migrants) or enslaved subjects (trafficked persons)—fail to capture the complex dynamics of coercion and choice that are embodied in their labor migration experiences. We need to dismantle the binary framework that presents two separate forms of migratory flows and construct a middle ground that recognizes the agency of migrants without dismissing the severe structural constraints that may hamper their freedom and autonomy. The labor migration of Filipina hostesses inhabits a middle zone between human trafficking and labor migration, which I describe as a process of *indentured mobility*. This paradoxical position frames their labor migration as one of simultaneous progress and subjugation; the financial gains afforded by labor migration come at the expense of their freedom. This paradoxical position is also one of both coercion and choice; most migrant Filipina hostesses do not want to leave their situations, but if they did want to quit their jobs as entertainers or protect themselves from unscrupulous employers, they could not do so without facing criminalization as undocumented workers. The framework of *indentured mobility* provides a nuanced picture of the subjugation of Filipina hostesses as labor migrants, one that acknowledges their susceptibility to human rights violations but simultaneously rejects the prevailing discourse on human trafficking that paints hostesses as helpless victims in need of "rescue." Underlying the construction of trafficked persons as "victims" in need of rescue is the moralistic view that women must stay close to hearth and home so as to protect their femininity (Cheng, 2010). Laura Agustin (2007) argues that the conflation of migrant sex work and trafficking romanticizes female domesticity. Constructing migrant sex workers as trafficked victims in need of protection suggests that women migrate (i.e., leave the comforts of home) only when "pushed, obligated, coerced, or forced" (Agustin, 2007: 111).

Indentured mobility—labor migration under severe structural constraints—is a result of policies that limit the control of individuals over their labor migration. This is perhaps one of the more important points that I am making in this article. At the moment, various pundits present human trafficking as a problem of organized crime. An article on human trafficking that appeared in the *Miami Herald* earlier this week, for example, cites a U.S. Homeland Security officer, who claims that "This is organized crime where humans are used as products. We

are talking about selling a person over and over and making large sums of money" (Burch, 2011). But the situation of migrant Filipina entertainers—whether one calls it indentured mobility or human trafficking—suggests that human trafficking is not a problem of organized crime but is instead a problem caused by stringent migration policies that that strip migrants of control over their labor and migration. Gendered protectionist laws—as in the case of migrant Filipina entertainers— constitute one such set of laws that remove migrants' control over their labor and migration. This tells us that abiding by the 3Rs, with their focus on rescue, and the 3Ps, which are centered on prosecution, will not solve the problem of human trafficking. Instead, what we need to do is revisit migration policies world-wide, including various exclusionary laws that limit migrant laborers to contract labor, and work toward implementing policies that ensure migrants retain greater control over their labor and migration. Human trafficking is not a problem of organized crime; it is a labor migration issue.

At the beginning of the 21st century, the topic of "human trafficking" has become a major international policy concern. This is despite the low count of actual persons identified as trafficked persons by the International Organization of Migration (IOM). For instance, the IOM database shows that less than 8,000 victims of trafficking were assisted by IOM missions in 26 countries between 1999 and 2005, which is significantly fewer than the 800,000 trafficked persons estimated by the United States (Andrijasevic, 2010). Labor and migration researchers should act on the public concern over human trafficking and pursue research projects that document the unfree condition of labor migrants the world over. We should no longer assume that migrants are free workers, meaning workers who are in a position to choose their employers or select their occupations after their migration. In fact, servitude is a prerequisite of migration for many labor migrants, as many are guest workers, meaning temporary labor migrants whose residency is conditional on their employment by a citizen sponsor. Today, we find guest workers throughout Asia, Europe, and the Americas. This is despite the end of the two most famous guest worker programs in recent history: the *gastarbeiter* program, which ushered in the postwar labor migration of Turks to Germany that lasted until the early 1970s (Castles, 1984) and the preceding *bracero* program, which facilitated the arrival of about 4.5 million Mexican workers who came to work in the agriculture, railroad, and construction industries in the United States between 1942 and 1964 (Ngai, 2005; Pitti, 2003). While we do not know the exact numbers of guest workers or temporary labor migrants, we know that the majority of economic migrants fall into this category. In fact, only a few nation-states allow economic migrants to enter as permanent residents: these include Australia, Canada, and the United States (Martin & Zurcher, 2008). How servitude shapes experiences of labor migration, whether servitude results in forced labor, human trafficking, or indentured mobility, and, more importantly, what types of subjugation servitude imposes on labor migrants are questions

that are ripe for research by scholars concerned with the status of workers in the global economy.

REFERENCES

Agustin, L. 2007. *Sex at the margins: Migration, labour markets and the rescue industry.* London: Zed Books.

Andrijasevic, R. 2010. *Migration, agency and citizenship in sex trafficking.* New York: Palgrave Macmillan.

Biao, X. 2006. *Global "body shopping": An Indian labor system in the information technology industry.* Princeton, NJ: Princeton University Press.

Burch, A .D. S. 2011. Modern day slaves' story repeats daily in plain sight. *Miami Herald,* January 23.

Castles, S. 1984. *Here for good: Western Europe's new ethnic minorities.* London: Pluto Press.

Cheng, S. 2010. *On the move for love: Migrant entertainers and the U.S. military in South Korea.* Philadelphia: University of Pennsylvania Press.

Christman, J. 2001. Liberalism, autonomy and self-transformation. *Social Theory and Practice,* 27: 185–206.

Lan, P. C. 2006. *Global Cinderellas: Migrant domestics and newly rich employers in Taiwan.* Durham, NC: Duke University Press.

Mahmood, S. 2005. *Politics of piety: The Islamic revival and the feminist subject.* Princeton, NJ: Princeton University Press.

Martin, P., & Zurcher, G. 2008. Managing migration: The global challenge. *Population Bulletin,* 63(1): ___-___.

Ngai, M. 2005. *Impossible subjects: Illegal aliens and the making of modern America.* Princeton, NJ: Princeton University Press, 2005.

Oishi, N. 2005. *Women in motion: Globalization, state policies, and labor migration in Asia.* Stanford, CA: Stanford University Press.

Parreñas, R. S. 2008. *The force of domesticity: Filipina migrants and globalization*. New York: New York University Press.

Parreñas, R. S. 2010. Homeward bound: The circular migration of entertainers between Japan and the Philippines. *Global Networks*, 10: 301-323.

Parreñas, R. S. 2011. *Illicit flirtations: Labor, migration, and sex trafficking in Tokyo.* Stanford, CA: Stanford University Press.

Pateman, C. 1988. *The Sexual Contract.* Stanford, CA: Stanford University Press.

Philippine Overseas Employment Administration. 1997. Guidelines on the Accreditation of Japanese Principals Hiring Filipino Performing Artists (OPAs). Retrieved from www.poea.gov.ph/mcs/Mc-1997/MC-10.tif, December 2011.

Pitti, S. 2003. *The devil in Silicon Valley: Northern California, race, and Mexican Americans.* Princeton, NJ: Princeton University Press,

U.S. Department of State. 2004. *Trafficking in persons report.* Washington, DC: Government Printing Office.

United Nations. 2000. Protocol to prevent, suppress, and punish trafficking in persons, supplementing the United Nations conventions against transnational organized crime. Retrieved from www.osce.org/odihr/19223, December 2011.

QA: Please supply pg#s

Villalba, M. A. C. 2002. Good practices for the protection of Filipino women migrant workers in vulnerable jobs. Retrieved from www.pstalker.com/ilo/resources/GenPromPhilippines.pdf, December 2011.

Direct reprint requests to

Rhacel Salazar Parreñas
University of Southern California
Department of Sociology
Kaprielian Hall 352
3620 S. Vermont Ave.
Los Angeles, CA 90089
e-mail: parrenas@usc.edu

STUDENT WORKERS IN THE FOXCONN EMPIRE:
THE COMMODIFICATION OF EDUCATION
AND LABOR IN CHINA

YIHUI SU
Peking University

ABSTRACT

This article reveals the mechanism involved in the mutually complementary commodification of education and labor, and the results of this commodification. Emphasizing institutional factors, this article argues that the state plays a dominant role in the combination of the two types of commodification. It also scrutinizes the impact of this dual commodification on student workers—deskilling, alienation, fragmented social lives, and industrial injury—as well as their response.

INTRODUCTION

In 2010, 17 workers committed suicide at a factory in China operated by Foxconn Technology, the world's biggest contract electronics maker and a major supplier to Apple, Dell, Hewlett-Packard, and other companies. This rash of suicides attracted attention from the general public and raised questions about the harsh regime enforced by Chinese factories to produce a growing share of the world's goods. Media, academic groups, and labor rights groups all joined in the discussion of migrant workers' working conditions within factories. Foxconn's employment of "student-workers" also led to a discussion about collusion between technical schools and Foxconn. Most of these-student-workers were "interns" who were second or third year students at technical schools. Sent to Foxconn by their schools after the wave of suicides, these students received the same treatment

341

as their colleagues except that they had no insurance. In contrast to the workers who had committed suicide, these student workers mobilized to protest against Foxconn and their schools. On September 16, 2010, thousands of student-workers clashed with Foxconn's janitors. The students were dissatisfied with the terms of their employment agreement, and they asked Foxconn to change their articles of employment. Sending janitors to threaten students did not enable Foxconn to prevent the conflict from escalating into unrest. As a result, the Shanxi Education Ministry had to force Foxconn to stop its recruitment of student interns. Likewise, students in Shenzhou Communication Technical School threw bottles out of windows to express their anger and unwillingness to work at Foxconn. In the events leading to these two protests, student workers had been bought and sold by Foxconn and their schools. Due to the collusion between their technical schools and Foxconn, the students' labor and education both became commodities.

The purpose of this article is to make sociological sense of the "dual commodification"—of labor and education—through a reconstruction of Karl Polanyi's theory of the "fictitious commodity." Explaining how the commodification of labor and the commodification of education work together, this article attempts to analyze the mechanism involved in this dual commodification. It also examines the impact on students and their response. In brief, three questions are asked in this article: How are the commodification of education and the commodification of labor brought together? Who is the main actor in this dual commodification? How does it impact students? How do the students respond?

In this article, I first outline a theoretical framework that examines the dual commodification and students' response to it. Second, I introduce the basic data on student workers at Foxconn. Next I sketch the history of technical schools in China and provide an analysis of the mutually complementary commodification of education and labor. In addition, I will demonstrate the impact of this dual commodification on student workers and their response.

METHODOLOGY

A case study is the ideal way of examining dual commodification in China. Foxconn offers an ideal case study with which to reconstruct the theory of commodification. As a Fortune 500 company, Foxconn Technology Group is the largest final assembler-supplier in the global electronics industry. By the end of June 2010, its net income had risen to US$1.08 billion (Culpan, 2010). It employs over 800,000 staff worldwide, mostly in China (Foxconn Technology Group, 2010). Providing "manufacturing, assembly, and after-sales services to global Computer, Communication and Consumer-electronics (3C) leaders," Foxconn undercuts its competitors in terms of the price, speed of delivery, and quality of its finished products by shortening its supply chain. Most importantly, it has signed employment agreements with many technical schools. Student interns account for a large proportion of its workers. Thus, analyzing Foxconn's

collusion with technical schools and the impact on its student interns can clearly demonstrate how the commodification of education and labor works together at the organizational level and the micro-level.

In addition, a historical study of technical schools provides an institutional explanation of the mechanism involved in dual commodification at the macro-level. Scrutinizing the rise and decline of technical schools can clearly illustrate how the commodification of labor and the commodification of education are brought together and the role the state has played in this process.

The data were collected through interviews and questionnaires. An investigating group made up of 60 students from 20 universities went to 12 Foxconn plants to study the factory regime and its cooperation with technical schools. From June to October 2010, these students conducted 300 interviews and sent out 1,500 questionnaires in nine cities. I participated in this group in July 2010 and interviewed workers, several managers at Foxconn, employment agency staff members, and some teachers at technical schools. The questionnaire included questions dealing with workers' majors, wages, contracts, working time, working conditions, social insurance, and relations with their schools and Foxconn.

FICTITIOUS COMMODITY, DUAL COMMODIFICATION, AND MORAL POWER

Due to the decline of state socialism and the expansion of neoliberalism, China's economy and society have undergone a wave of marketization. Following decades of economic reform, land, labor, and money in China have gradually become commodities open to the expansion of global capitalism. Thus, increasing numbers of scholars pay attention to the mechanism of marketization in China and its impact on society. Nevertheless, most studies focus on the commodification of land, labor, and money and the social movements struggling against this trend (Hooper, 2005; Hurst, 2009; Lee, 2007; O'Brien & Li, 2006; Palmer, 2006; Tsai, 2007; Yan, 2009; Zhang, 2001). The marketization of other areas, such as education and medical care, rarely attracts sociologists' attention. Moreover, the relationship between different types of commodification and their impact on society have not been widely discussed in the academic field. This article attempts to explain how the dual commodification—of labor and education— works together. Drawing on Polanyi's theory of the "fictitious commodity," this article explores how labor and education became commodities bought and sold on the market. For Polanyi, labor, land, and money are all "fictitious" commodities that are not produced for sale on the market. Their commodification involves the intervention of the state. However, the state has dual faces in Polanyi's work. On the one hand, the state has agreed to the commodification of land and labor. The state has intentionally opened the road to the free market. On the other hand, the state has also enacted numerous laws and regulations to inhibit this commodification. This paradox results from the ambivalent role of the state.

According to Polanyi, the state seems like an arena where one class fights against or allies with another. Various classes have had different attitudes toward the commodification. However, the state is an autonomous structure—"a structure with a logic and interests of its own, not necessarily equivalent to, or fused with, the interests of the dominant class in society or the full set of member groups in the polity" (Skocpol, 1979: 27). From this perspective, the state has its own attitude toward the commodification. This article treats the Chinese state as an actor and scrutinizes its role in the dual commodification. It argues that the commodification of education and the commodification of labor are brought together via the state's strategy of the "combination of learning and working" (*gong xue jie he*). The "internship," as an important "node," connects technical schools, students, and Foxconn in the dual commodification.

Aside from the mechanism involved in this dual commodification, this article also examines its impact on students and their response. For Polanyi (1957: 71), "Labor and land are no other than the human beings themselves of which every society consists and the natural surroundings in which it exists. To include them in the market mechanism means to subordinate the substance of society itself to the laws of the market." As a result of commodification, he considers that constituents of society such as the household and culture will be undermined. This article asserts that education is also a fictitious commodity, because it is a part of life and connected to human morality and values. Examining how the "internship" system has led to students' deskilling and fragmented social lives, this article observes that reducing education to the commodity of "knowledge" undermines students' socialization.

In addition to expounding his theory of the "fictitious commodity," Polanyi thinks the expansion of the self-regulated market inevitably provokes a corresponding countermovement to protect society. Nevertheless, many scholars criticize Polanyi on the grounds that his spontaneous countermovement is far from empirically demonstrated (Burawoy, 2008; Silver, 2003). With his failure to demonstrate how and under what conditions countermovements can erupt, Polanyi leaves numerous puzzles. Instead, Beverly Silver (2003) uses a world-historical framework to demonstrate the dynamic of labor protests—the crisis of profitability and the crisis of legitimacy. Arguing that Polanyi ignores the concept of "power," Silver borrows from Erik O. Wright's (2000) distinction between associational power (power from the formation of collective organizations of workers) and structural power (power from workers' location in the economic system). Nevertheless, Silver's discussion can not completely demonstrate how and under what conditions workers with weak structural power and contested labor rights can leverage alternative sources of associational power (Chun, 2009). Drawing on Bourdieu's concept of symbolic struggles, Chun shows how marginalized workers rebuild the basis of their associational power by using recognized symbols, strategies, and slogans from existing political actors and past social movements. In comparison to the marginal workers in Chun's account,

student-workers in China have encountered a larger dilemma because they have had neither the symbols nor the slogans to mobilize a "politics of shame" to exert pressure on Foxconn. However, they also use moral norms and cultural values to forge meaning and a consensus on the legitimacy of their struggles. Given that their moral discourse and rhetoric relate to the traditional Confucian understanding of education, this article explores how the student-workers have been mobilized and what resources they have used. It shows that their moralization of "injustice" is rooted in the "moral crises" of technical schools.

STUDENT WORKERS AT FOXCONN: BASIC INFORMATION

According to my investigation, 18% of the Foxconn workers range in age from 16 to 18, compared to 42.7% who range from 21 to 25. Student-workers account for one-third of those aged 16 to 18 (Foxconn Investigation Group, 2010). In Kunshan, the Foxconn workforce is about 60,000 strong. Among these, 10,000 workers are student interns. On the Longhua campus, likewise, student interns in some departments constitute up to 50% of the workforce. A worker at Computer Module Move & Service Group (CCMSG) disclosed that 700–1,000 out of 2,600 workers in her department were student interns. According to a news article in late June 2010, around 100,000 students were deployed to work at Foxconn's Shenzhen production facilities (Hu, 2010). Kunshan Foxconn had received more than 500 student interns by the end of August. In addition, 119 vocational schools in Chongqing also promised to send students to work in Foxconn (Hu & Wang, 2010).

These student interns come from a wide variety of majors—they are training to be nurses, locksmiths, security guards, and so on—few of which are relevant to their work at Foxconn. Officially, the length of the "internship" ranges from two to seven months, but some students have even worked in Foxconn for two years. Their basic monthly wage is the same as that of other workers—CNY940 in Tianjian, CNY950 in Wuhan, CNY1,250 in Hangzhou, CNY1,100 in Kunshan, and CNY1,200 in Shenzhen (see Table 1). None of these student workers can be exempted from overtime work. In 2008, the monthly overtime of Foxconn workers amounted to 120 hours during the peak production time (SACOM, 2010). After the suicides, workers including student interns continued to work 10 hours a day and six days per week. Though they received overtime premiums, these student workers had neither contracts nor social insurance. Indeed, student interns at Foxconn are de facto workers on the production line. As they are de facto workers with intern status, they are not protected by labor law and labor contract law, which provide that workers are entitled to contracts and social insurance.

So why and how did these students enter Foxconn? How did their schools cooperate with Foxconn? In the following section, I outline the history of technical schools in China and the mutually complementary commodification of education and labor.

Table 1. Foxconn Workers' Monthly Wage, 2010

	Tianjin	Wuhan	Hangzhou	Kunshan	Shenzhen
Food Consumption per capita (CNY)	450.42	469.14	581.15	534.96	552.02
Monthly living wage (CNY)	1,684.5	1,745.4	2,173.3	2,000.5	2.000
Local minimum wage (CNY)	920	900	1,100	960	1,100
Basic wage of a frontline worker at Foxconn (CNY)	940	950	1,250	1,110	1,200

Source: SACOM (2010).

HISTORY OF TECHNICAL SCHOOLS AND DUAL COMMODIFICATION

In the mechanism of dual commodification, the state plays an important role. Scrutinizing the history of technical schools, we can see how the commodification of labor began via the intervention of the state and how it became combined with the commodification of education as the state left this expanding commodification unchecked.

Tracing the history of technical schools, it is interesting that these schools rose from 1949 onward and entered their "golden age" in 1978. They gradually declined after they reached their peak in 1996. Ironically, the commodification of labor began in 1978 when economic reforms were being set in place by the state. This commodification had a negative impact on the development of technical schools, but the state actively connived in its expansion. Due to the state's connivance, education was also involved in the commodification. Promoted by the government, the commodification of labor and that of education worked together.

Commodification of Labor

From 1978 onward, the Chinese government carried out economic reforms. Its most important goal was to establish a market economy. It included two main changes, one of which is the establishment of special economic zones (SEZs). In the SEZs, local government implemented preferential policies to attract foreign capital and nurture a free market. Goods were no longer distributed according to the central plan but bought and sold on the market. They became commodities whose price is decided by the laws of supply and demand. The other change is that government loosened economic control over business enterprises. Many state-owned enterprises became private, and their social contract with workers became an economic contract. Furthermore, the limitations on labor mobility were loosened, and labor also became a commodity bought and sold

on the market. These two changes demonstrated that the commodification of labor in China was the state's intention. With the state's intervention, the demand for and supply of workers gradually came to depend on the requirements of the market.

When the commodification of labor started in 1978, technical schools were blossoming with the help of the state. Examining the history of technical schools, the following section shows how the commodification of labor affected the technical schools and how the commodification of labor and the commodification of education were combined and brought to work together with the connivance of the state.

Commodification of Education

Rise of Technical Schools. The emergence of technical schools was the policy of the state. After the establishment of the People's Republic of China in 1949, the Chinese government set up the First Five-Year Plan (1953–1957) to develop the domestic economy. One part of this plan entailed the training of skilled laborers in the service of industrialization. As China was lacking in training experience, the Chinese government introduced the technical school system from the Soviet Union (Ma, 2005). By 1953, there were 651 technical schools, located all over the country (Zhang, 1999). Some of them tried to foster cadres with management skills. The others made an attempt to train skilled workers. Most of these technical schools required three years' attendance, and they were funded by the government. After graduation, the students were directly assigned to factories according to the central plan. The mobility of labor was limited unless it was required by the state. Social contracts between state and workers secured full and lifetime employment. Moreover, during this period, cooperation between technical schools and state-owned enterprises was common. On the one side, students practiced their skills in the enterprises that they would enter in the future. On the other, workers came to technical schools to learn new skills and returned to their factories when they finished their studies. This collaboration, termed the "combination of learning and working" (*gong xue jie he*), provided large numbers of skilled laborers for agriculture and manufacturing, contributing to long-term economic growth. This effective method of training skilled laborers contributed to the boom in technical schools. By 1965, the number of technical schools amounted to 61,626 nationally (Zhang, 1999). The ratio of students in technical schools to students in high schools was 1:1.74 (Zhang, 1999).

Golden Age of Technical Schools. When the commodification of labor began in 1978, the establishment of a labor market needed large numbers of skilled workers. In order to supply sufficient skilled labor to serve the labor market, Deng Xiaoping pointed out in 1978 that the number of technical schools should be increased to suit the changing economic system. From then on, the state deliberately set in place many policies designed to promote the development of

technical schools. For example, the Ministry of Education and the State Labor Bureau enacted policies to increase the number of technical schools in 1980. According to the *Report on Reforming the Structure of Secondary Education* in 1980, large numbers of high schools were turned into technical schools (Hao & Ren, 1999). In addition, the government provided yearly subsidies for technical schools directly under the Ministry of Education, according to the *Proposal on Reforming the Structure of Secondary Education and Developing Technical Schools* in 1983 (He, 2009). Between 1980 and 1985, the number of students in technical schools increased from 18.7% to 35.9% of the total number of students at the level of the senior middle school (Hao & Ren, 1999; He, 2009). Funding for education increased from 0.603 to 1.421 billion CNY between 1987 and 1992, with an average yearly increase of 18.7%. Thanks to the *Technical Education Law of the People's Republic of China,* students in technical schools accounted for 56.7% of the total enrollment at the level of high schools in 1996 (He, 2009). Due to the state's efforts, the technical school system entered into its "golden age."

Up to 1996, technical schools played an important role in the whole education system (Tao, Li, & Yang, 2002: 121).

The education system comprises primary, secondary, and tertiary education. Children go to primary school when they are five years old. After they graduate from primary school, most students spend three years in middle school. When they are 14 or 15 years old, they enter the high school or technical school. If they go to technical school, they will receive the training of a skilled laborer and enter the labor market after their graduation. Otherwise, they go to high school and take the university entrance exam three years later. If students get the opportunity to enter university, they will continue their studies. Otherwise they will enter college or the labor market.

Decline of technical schools. In 1996, the technical school reached its peak. This success resulted from the state's support. First of all, the government assigned the students jobs after their graduation. These students did not need to worry about their future. This unified job assignment system attracted large numbers of students, which sustained the operation of the schools. Second, the government provided large subsidies to the technical schools. Tuition fees in technical schools were much lower than those in high schools, and students were able to attain generous scholarships (Zhao, 2006). Because of these two factors, technical schools grew vigorously. Nevertheless, the intervention of the state led to some tension with the commodification of labor, although the emergence of the latter resulted from the former. First of all, increasing the numbers of technical schools produced an excess of skilled laborers. With the process of economic reform and the expansion of commodification, the structure of industries had been changed, and numerous state-owned enterprises went bankrupt. This led to the shrinking of job opportunities for skilled workers. In face of this tension—the oversupply of skilled laborers and the deficiency in job opportunities—the government did not stop or slow down the

process of commodification. Instead, it involved education in the new wave of commodification. In this "intentional" commodification, the state gave up the unified assignment strategy and fostered competition in the labor market. Furthermore, it cut grants for technical schools and turned them into private institutions (Meng, 2004). In 1999, the *Solution to Deepen Education Reform and Promote Competence-Oriented Education,* enacted by the Party Central Committee and the State Council, stopped education subsidies for technical schools and completed the privatization of technical schools (Meng, 2004). Moreover, the *Proposals on Fully Promoting the Equality of Technical Education,* enacted by the Ministry of Education in 2006, encouraged technical schools to cooperate with enterprises (Meng, 2004). Through the cooperation of technical schools and enterprises, the commodification of labor and the commodification of education were combined.

Combination of the Commodification of Labor and the Commodification of Education

When the government encouraged technical schools to cooperate with enterprises, the commodification of labor and the commodification of education began to work together. In the dual commodification, the "combination of learning and working" (*gong xue jie he*) plays an important role (see Figure 1). Before the dual commodification, reciprocity existed between technical schools and state-owned enterprises (SOEs). Through the "combination of learning and working," students
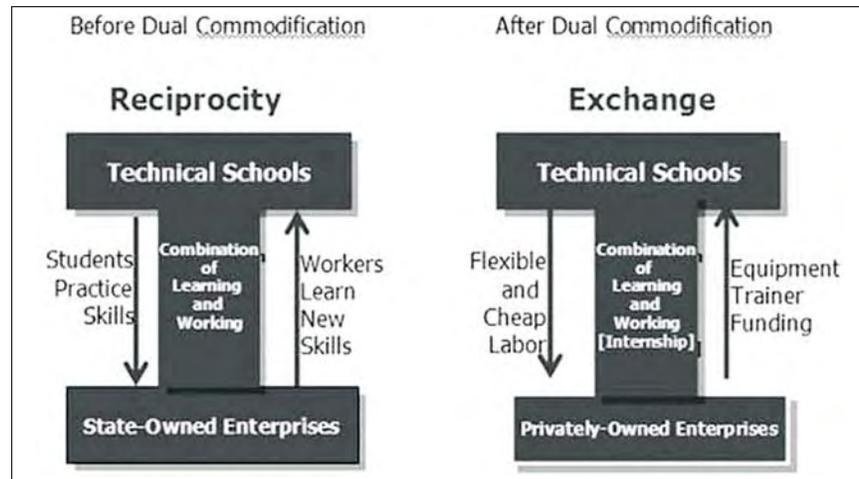
Figure 1. Combination of the commodification of labor and the commodification of education.

SU

practiced their skills in SOEs, which helped them become more experienced. Meanwhile, workers in SOEs could improve their skills by learning new skills in technical schools. Technical schools' funding and SOEs' funding both came from the state. Neither the schools nor the state-owned enterprises gained profit from students or workers. In the dual commodification, the "combination of learning and working" (*gong xue jie he*) received a new name—"internship." This "internship" has been written into certain regulations. According to the *Proposals on Fully Promoting the Equality of Technical Education*,

> it is necessary to establish the internship system that students are required to work in enterprises as interns in order to strengthen their productive and social practice. Enterprises should receive students from technical schools, and technical schools should guarantee that students work in the enterprises at least for half a year during their three years study.

Through this "internship," technical schools sent their students to enterprises in exchange for equipment, trainers, and funding to help the schools get out of their financial crisis. Meanwhile, enterprises received flexible and cheap labor in order to make profits. Ironically, the original goal of the "combination of learning and working"—to improve the students' skills in order to make them more competitive—was ignored by both sides. In contrast, students were sent to labor-intensive enterprises where they performed unskilled labor and became less competitive, while their schools gained more funding. Furthermore, the length of the "internship" was usually extended to a year or even much longer, which violated the law. In sum, under the government's advocacy of the "combination of learning and working," these students' labor and education became commodities bought and sold by enterprises and technical schools. In order to analyze the mechanism involved in the dual commodification in detail, the next section will focus on the collusion between technical schools and Foxconn to show how the dual commodification worked together via the "internship."

Collusion between Technical Schools and Foxconn

Student-worker: Cheap and flexible labor. In answer to the question of why they use so many student-workers, one of the Foxconn managers replied as follows:

> We have recruited student-workers for many years. In the busy seasons (from May to December), technical schools send their students to our company. In the slack production season of summer and winter, we don't need so many workers. Luckily, students have vacation in these two seasons. When summer and winter come, they go back to their homes. It is convenient and flexible to use student-workers. It could cut cost.

It appears that flexibility and low cost are important reasons why Foxconn recruits student-workers. Why are the student-workers flexible and cheap? The

answer lies in student-workers' ambiguous legal status. According to the *Opinion on Several Problems of Implementing Labor Law*, it is not considered "employment" when students work in their spare time. This *Opinion* holds that the relation between students and company is not a labor relation, and that these students are not required to sign a labor contract with the company. Furthermore, some lawyers have argued:

> According to the law, the only standard to distinguish whether it is an internship or not is the status of student. That is to say, it is considered an internship instead of employment that students work in the company even though they are in a work-study program. During the internship, students are not protected by the labor law. Generally, they are still full-time students legally even though they are working in the companies under arrangement of the school or by themselves. Their relation with the company is not a labor relation. That is why they are not protected by Labor Law. Students' disputes with companies are not treated as labor disputes. If they are hurt at work, they could treat it as a civil dispute.

According to this explanation, student-workers are legally considered to be students rather than workers during their internships. Their relation with Foxconn is not a labor relation, and their rights are not protected by labor law. Due to the lack of protection, students constitute the cheapest and most flexible form of labor to serve in the labor market. Given students' flexible labor and the labor market's urgent need for cheap labor in the busy season, Foxconn largely uses student interns on its assembly line. On the one hand, Foxconn can obtain young, cheap, and stable labor via internships during the busy seasons. On the other hand, it can easily ask schools to end the students' internships and send the student-workers back to their schools at any time. It is not required to pay economic compensation or insurance for these student-workers. This helps Foxconn cut costs considerably.

Why have these technical schools chosen Foxconn? Why have they sent their students to Foxconn rather than to other companies? How have technical schools cooperated with Foxconn? Have they persuaded their students to accept this type of internship, or have they forced the students to do so? To answer these questions, the following section will scrutinize Foxconn's recruitment system.

Recruitment: Employment agency and technical school. In order to meet its expanding demand for unskilled labor, Foxconn recruits new workers by four means—job fairs, a recruitment center, employment agencies, and technical schools. It is through job fairs that Foxconn recruits employees such as engineers, managers, and administrators. Most of them enjoy high salaries and decent positions. The other three means of recruitment are used to recruit ordinary workers. Foxconn's recruitment center is open to receive individual applications every day. Thousands of applicants go there to register. After that, they wait for an interview. The whole procedure is short and easy, and most applicants successfully pass the interview and go directly to the workshop. The final two

recruitment strategies are largely used to bring in student-workers. Recruiting student-workers via an employment agency is an efficient way for Foxconn to absorb cheap and flexible labor. Liu, a member of the staff of an employment agency in Kunshan, explained how he helped Foxconn find a partner technical school:

> I have a friend who is a teacher in Shandong Technical School. When I was entrusted by Foxconn with recruitment, I went to my friend's school to ask whether they would like to send their students to Foxconn during their internship. They approved of sending students to Foxconn since they lacked funding. For helping Foxconn find workers, I was paid 30 CNY(5 dollars) for every student. I didn't receive money from these students, but the teachers did. I think they charge these students in the name of an "internship fee." Now, it is different. Foxconn directly cooperates with the technical schools.

Another owner of an employment agency is more straightforward:

> All of the employment agencies here are closely connected with the enterprises. If they [enterprises] want to recruit workers, they will first tell me how many workers they need. Then we will seek cheap labor for them and share the profit with personnel managers. If you want to gain more profit, you'd better bribe these personnel managers. It is worth doing so because it will help you make a good profit.

Apart from dealing with these employment agencies, Foxconn directly built up long-term relationships with some technical schools. According to an investigation in Chongqing, Foxconn has signed employment agreements with 200 technical schools. With the help of these employment agreements, technical schools have sent large numbers of students to Foxconn. Chongqing Electronic Technical School, one of the schools having an employment agreement with Foxconn, has received 100 billion CNY from Foxconn to update its equipment. Aside from this, this school will build replicas of Foxconn's SMT and PCBA production lines in order to enable the students to work in the school itself. This collusion, termed the "combination of learning and working" (*gong xue jie he*), has made students involved in helping Foxconn to make profits.

  Aside from their middleman role, technical schools also charge students what is called an "internship fee." Most of the students interviewed said that they paid an "internship fee" to technical schools although they had already paid tuition ees at the beginning of the semester. "I paid 800 CNY to school before I came to Foxconn. I came here by train. The ticket was only 200 CNY. I think the school might pocket 600 CNY," said XiaoLiang, one of the student-workers in Foxconn Nanjing. In the same way, Xiaohui was charged by the school in the name of an "internship." He had been charged 3,000 CNY for tuition fees during his half year in school. Before he was sent to Foxconn, he paid another 5,600 CNY. Of this sum, 4,000 CNY were for his internship in Foxconn and 1,600 CNY were for lodgings. In these accounts, technical schools function as

profit-making institutions. They not only gain funding from Foxconn but also profit from their students.

In *The Great Transformation*, Polanyi (1957) notes that "Labor is only another name for a human activity which goes with life itself, which in turn is not produced for sale but for entirely different reasons, nor can that activity be detached from the rest of life, be stored and mobilized." According to Polanyi, labor is a fictitious commodity and can not be sold or bought on the market because it is a part of life and can't be separated from the human being itself. Education, like labor, is also a part of human reproduction. It is not just "information" that can be bought and sold on the market. Instead, it is connected to human morality, values, and intellectual development, and it closely relates to the students' socialization as citizens. When education becomes a commodity bought and sold on the market, it is reduced to "information," which destroys the formation of students' morality and values, namely, their socialization. In the combination between technical schools and enterprises, the commodification of labor and the commodification of education have worked together to turn schools into profit-driven organizations in the name of "internships." In order to raise money, they not only charge students an "internship fee" but they also exchange students' labor for funds. When students' practice, which is a part of their education, becomes a commodity, it helps Foxconn buy students' labor via training programs. With the help of "internships," learning and working are intertwined, while the commodification of education and that of labor work together. Nevertheless, education and labor are both parts of the human being itself—education is connected to students' minds, and labor is closely related to their bodies. When students' education and labor are combined and exchanged between technical schools and enterprises, students' minds and bodies are both damaged. In the next section, I will show how the "internship" has impacted students and how they have responded to the collusion of technical schools and Foxconn. I will demonstrate how "internships" have led to their deskilling, their atomization, and damage to their social relationships.

IMPACT OF THE DUAL COMMODIFICATION AND STUDENTS' RESPONSE

Deskilling and Alienation

How did the students who were interviewed understand the "internship"? Did they think it was helpful in improving their skills through practice? Were they happy to be sent to Foxconn? When Bai was asked whether the "internship" was helpful for his future, he answered, "No. This is not useful. It doesn't relate to my major. I have doubts about this internship because I found my knowledge learned in school was of no use in Foxconn. Is it a waste of time working here or learning at school?" Mentioning "internship," Wang revealed the same attitude

as Bai's: "We didn't practice our theory in our working because our tasks at Foxconn didn't relate to what we learned at school. In short, you can work in Foxconn no matter what your major is." Cheng expressed his worries about the internship, "In Foxconn, we learned nothing. We did simple actions repeatedly, just like a robot." He said, "We might be being cheated by the school!" Some students openly showed their dissatisfaction. According to my investigation, most student-workers were second or third year students in technical schools. All of them were minors whose ages ranged from 16 to 18. They were largely from Henan, Anhui, Hubei, and Sichuan. Their majors varied, including not only natural science and business but also humanities. Further, they were not assigned to positions related to their majors. Xiaoling, whose major was business management, was sent to the assembly line to control the machines; Xiaohui, who was studying digital control, was assigned to mobile phone shell processing. Xiaotang, who was crazy about operating the lathe, was to his disappointment assigned to the production of buttons for Apple computers. Likewise, Xiaoyu, who had been studying automobile maintenance for years, was asked to label computer fans on the assembly line. These stories all demonstrate that an "internship" in Foxconn has not been an opportunity for students to increase their skill or help them become more competitive. On the contrary, their deskilling in the production process has resulted in their alienation.

Foxconn uses Taylorism—it breaks workers' every action into simple segments which can be easily analyzed and standardized to make production more efficient—and Fordism to organize its production process. As Founder Terry Gou said, its production philosophy is "dismantling, simplifying, and standardizing the entire business process according to the norm in order to gain more profit with least resources." Terry Gou considers that every process should be divided. He requires a control system to be designed as a "camera" to guarantee that every worker can engage in production without any professional knowledge or special training. Industrial engineering (IE) is the basis for Foxconn's management. It is necessary to measure, conceptualize, and design workers' operations in order to standardize these operations. Therefore, each worker is integrated into the factory regime simply as a "machine part." Workers do not need to think. They just implement managers' orders and repeat a simple operation mechanically. A large number of student workers repeatedly described their work like this: "We are machines"; "We are faster than a machine"; or "Work is so dull, boring, and monotonous." Huang, a student-worker, described her work like this:

> I, as a "machine part" in the workshop, was located in the chair and bound with a static line. When a mobile phone board was delivered from the furnace, I held out my hands and seized the board, then shook my head. My eyes moved from right to left and up to down continually. When I found that a machine part was put in the wrong place, I shouted, "AOI." Then another "machine part" would come and ask what was wrong with the mobile phone board.

Another student-worker, Yang, said, "What we were required to do was to repeat this simple action four or five thousand times. It was dull and boring, but we had no choice." He continued, "Yes, every time you see a worker with dull eyes, vacuous look, and little smile, he or she is definitely working in Foxconn." Indeed, Taylorism and Fordism are useful in improving productivity and bringing workers under control. But thanks to these efficient management practices, student-workers' alienation has been intensified, and their labor value has been reduced. Student-workers have become interchangeable parts.

Fragmented Social Lives

Aside from students' deskilling and alienation, the relations between student-workers were fragmented. Students were sent to the assembly line at random, and they worked with strangers. Each worker was strictly confined to his seat, and workers were not allowed to move and talk with each other. Furthermore, workers in different workshops were forbidden to communicate with each other during work time. Wang, who came to work for Foxconn in 2006, described how managers separated student-workers from their classmates:

> We have trained 120 students. Twenty of them are from the same school. We recruited them at the same time but trained them five times. Every time we trained different students in order to obstruct their communication and break up their solidarity. Furthermore, the purpose of sending them to the assembly line at random is to prevent students from gathering. Even though they were acquainted with each other, this strategy is useful to make them scatter. Personally, I think the reason that workers committed suicide rather than protest related to this arrangement. Foxconn always distributes these student-workers to different departments. If you put them in the same department, these students would be able to build their solidarity. However, if they are distributed to different departments, they will not be able to organize to fight against the company.

Due to this strategy, student-workers' social relationships have been undermined, and they have come to feel deeply lonely and helpless. Yang described his social isolation at Foxconn: "I had few good friends in Foxconn. I didn't know where I should go when I took rest. I felt lonely because I had no friends to hang out or chat with. All of us were sent to the assembly line at random. In addition to the alternation of day and night shifts, we had no time to communicate. Because of that, it was difficult for us to build up profound friendships." Atomization, the result of the way Foxconn is managed, plunged these workers into despair.

In addition, the dormitory labor regime intensified student-workers' atomization. Assigned to a dormitory at random, these students had few opportunities to meet. Lack of communication resulted in their estrangement from each other:

> My four classmates and I entered into Foxconn at the same time. At the beginning of training, we chatted and went shopping together. It was easy

> for girls to communicate. We shared our experience when we were free. However, we were assigned to different plants and dormitories. Only Hong and I stayed in the same plant, but we were not in the same assembly line or dormitory. She worked on the night shift, while I worked on the day shift. We seldom met each other from then on. In short, all of us were separated after training. We no longer had time to chat and stroll. Double-shift work and different dormitories gave no opportunities for us to communicate.
>
> There were eight persons in our dormitory, but we worked on different shifts and in different workshops. Although three of us worked on the same shift, we went to different workshops soon and had no time to chat. Because of the high turnover, people who lived in our dormitories didn't even know each other before they left Foxconn. Most of the time, we were too tired to chat after work.

Fragmented social relations have turned these student-workers into atoms that have no connection with each other. Working and living in Foxconn, they have had to face strangers every day.

Industrial Injury

Given that student-workers' legal status is that of students rather than workers, no labor contract exists between these student-workers and Foxconn. Students signed employment agreements with the company. The biggest difference between labor contracts and employment agreements is that under employment agreements companies don't need to pay for students' insurance during their internships. Without industrial injury and medical insurance, student-workers have had to claim for compensation via civil procedures when they have been injured at work. However, civil law is far inferior to labor law in protecting employees, and the civil procedure is longer and more complex. Therefore, it is difficult for students to receive compensation.

In addition, officially, students are not allowed to work for more than 8 hours a day during their internships, but student-workers in Foxconn worked for 10 hours on average. They also worked on Saturday, leading to a heavy burden being placed upon them, which damaged their minds and bodies. "My eyes are not comfortable, and I feel sick every day. You see, my hand was hurt by machines even though I was wearing gloves. Furthermore, my work wouldn't be finished if I was wearing gloves. Due to heavy work, I had to take these gloves off. I was too busy to eat or go to the restroom." Here, Xiao was describing the pressure when I asked her whether her work was heavy or not. Her classmates also showed how heavy work impacted on her health. Xiao said "When I came to Shenzhen, I was 70 kg. However, during these two months, I have lost 10 kg, because I was too tired. My shoulder was stiff due to long-term sitting." Enterprises are not allowed to assign students to positions that put their health at risk, according to *The Notification on Promoting Internship of Technical Schools in*

Response to Lack of Skilled Workers in Enterprises. However, many students in the present study were assigned to workshops where the working conditions harmed their health:

> In our employment agreement, there is a clause asking whether noise or radiation exists in our workplace. Foxconn's answer is no. However, my workshop is too noisy. The noise grates on my ears everyday and drives me crazy. Furthermore, they assigned my classmates to the workshop filled with radiation. They didn't give us a choice but just asked us to sign the agreement.

All of these accounts show that student-workers' ambiguous legal status helped Foxconn avoid extra costs. However, the lack of a labor contract meant that these student-workers had little protection under labor law. Extended internships, extra working hours, and severe working conditions damaged their minds and bodies.

Protest

The combination of dual commodification—the commodification of both education and labor—led to student-workers' deskilling, alienation, and fragmented social relations. It damaged their minds and bodies, making use of student-workers' ambiguous legal status. How did these worker-students deal with their problems? How did they respond to the changes happening in their life?

Since the beginning of 2010, 17 workers in Shenzhen Foxconn have tried to end their lives. Thirteen died, while four survived their injuries. Asked for the reasons for her suicide attempt, one survivor explained that she felt meaningless, helpless, and desperate. All of these feelings resulted from the production process and factory dormitory regime. In contrast to their colleagues who committed suicide, student-workers mobilized to protest against Foxconn and their schools when they encountered the same hardships. Why did these student workers choose protest rather than suicide? To answer this question, I examine the way in which these student workers mobilized and legitimized their struggles.

On September 16, 2010, students of Taiyuan Rail Technical School clashed with Foxconn. They reported that their majors were irrelevant to Foxconn's production and that they had been forced to intern there. "We learned nothing and didn't want to stay there. However, our school threatened that we wouldn't receive a diploma if we refused to stay in Foxconn. It was unjust and unfair. It was immoral." These student interns wanted to change their employment agreements, but Foxconn and the school refused their demands. Indignantly, they stopped work and approached the gate of the plant. However, they met with obstruction from janitors. Tearing up their employment agreements and breaking chairs, these students disregarded the janitors' obstruction and continued to move on. Failing to hinder them, the janitors started to beat the students. Taiyuan Foxconn was in chaos. In order to prevent this chaos from becoming worse, teachers promised to bring these students back to school. However, when

hungry students went to the dining hall to have lunch, the Foxconn janitors' arrogance provoked their indignation again. They broke chairs and smashed bowls in the dining hall, posting their pictures and their appeal on the Web:

> Work in Foxconn was irrelevant to our majors. Sending us to school, our parents hoped we would learn skills rather than waste time in Foxconn. They had paid a tuition fee! Why should we stay here without any improvement of our skills? This internship violated the purpose of education. It was not helpful for our skills and professional knowledge! Furthermore, radiation did harm to our health. We told our schools that we didn't want to stay in the high radiation. However, the schools forced us to stay here. Teachers said that we wouldn't receive our diplomas if we left Foxconn. Depriving [us of] our right to choose, this behavior disrespected human rights! The schools are irresponsible and immoral! It is illegal! Help us! Please help us!

This appeal received thousands of hits. Netizens criticized the cooperation of technical schools and Foxconn, asking for the cancellation of this "internship." They expressed their opinions with sympathy: "Is it internship or slavery? Support students!" "Well done, students! Smash Foxconn!" "Against the double oppression!" Gaining the support of public opinion, student-workers successfully saved themselves from the "enforced internship." Finally, the employment agreement was cancelled, and the students were sent back to their schools.

Likewise, students in Zhengzhou Communication Technical School yelled and threw bottles out of dormitory windows to express their dissatisfaction. This protest was also provoked by the "enforced internship": "Our major is motor repair. Why should we go to an electronics company? It is irrelevant to our major," one student said.

> The school said that it was an "internship" [*shixi*]. Actually, they sold our labor [*da gong*]! It wasted our time and youth. I spent many years on my major. Why should I go to an electronics company? Working in Foxconn was not helpful. Yes, you can get 1,000 CNY during the internship. But I'm a student! I'm studying! Why should I sell my labor now? There will be a lot of time for me to earn money after graduation.

Other students also demonstrated their indignation. "We had paid thousands of yuan to our school. Why must we intern before we gain knowledge? Furthermore, this work couldn't improve our skills. Doesn't it waste time? Treating students as cheap labor, the school is irresponsible! Parents worked hard to pay tuition. Doesn't the school need to solicit our parents' opinions? The school is not permitted to send us to Foxconn!" "Teachers said that we must drop out if we don't want to go to Foxconn." "They said that we would be expelled from school if we didn't work in Foxconn. It is immoral!" During the protest, some students made video recordings with their cellphones and uploaded them to the Web. These videos attracted attention from the media. After watching the

videos, one journalist interviewed some students, and the program was broadcast on TV. "Help me!" Students' poor faces appeared on the screen. Television viewers, especially parents, strongly condemned this "enforced internship." "I can't believe that this school sold children's labor rather than take charge of their education." "Internship should be based on the principle of voluntariness. This school had no right to force students to work in Foxconn." Under the pressure of public opinion, Zhengzhou Communication Technical School gave up its "internship" project.

Comparing these two protests, we can see some similarities. First of all, these protests were rooted in technical schools' "moral crisis," and the target was the collusion between technical schools and Foxconn. In the Confucian tradition, merchandise is inferior to education, and education should not become a commodity for sale because it relates to humans' morality and values. Schools have a responsibility for students' socialization, in areas including knowledge, skill, morality, and values. Therefore, when "enforced internship" ironically led to student workers' alienation, fragmented social relations, and especially deskilling, schools did not fulfill their responsibility according to the moral norms. This led to their crisis of legitimacy, their "moral crisis," provoking students' feelings of "injustice." Second, these students used expressions from moral discourse such as "irresponsible," "immoral," and "don't have rights," to moralize their feeling of "injustice" in order to form their solidarity. Furthermore, they used this discourse to legitimize their struggles and mobilize other citizens' moral identities. By showing themselves as "victims," they provoked citizens' sympathy and gained more support. In addition, the media played an important role in the mobilization of both protests. In the first case, students posted their appeal on the Web and generated pressure from netizens. Likewise, students in the second case uploaded their videos and attracted attention via television programs. In both cases, they called for "help" via popular media. Mass media, both the Internet and television, played an important role in communication and information dissemination. By using these resources, student workers demonstrated their feeling as well as the schools' "irresponsible" behavior. Emphasizing their schools' "moral crisis" and their position as victims via the media, the student-workers mobilized other citizens to come together. Without this, the students could not have allied with other citizens to gain success.

CONCLUSION

By outlining the history of technical schools in China, this article demonstrates the mechanism of the mutually complementary commodification of education and labor. Emphasizing institutional factors, this article argues that the state plays a dominant role in the combination of commodifications. First of all, the commodification of labor began under the aegis of the state. The state deployed neoliberal developmental strategies to nurture a free labor market. Labor became a

commodity bought and sold on the market. However, the expansion of the commodification of labor resulted in some tensions. On the one hand, the establishment of a labor market needs a large number of skilled workers. To nurture the free labor market, the government enacted many policies to develop technical schools. On the other hand, the commodification of labor and the economic reform resulted in the bankruptcy of numerous state-owned enterprises. This led to the shrinking of job opportunities. In face of the tension between the oversupply of skilled laborers and the insufficiency of job opportunities, the Chinese government initiated the commodification of education rather than slowing down the process. Its measures included giving up the unified job assignment, cutting grants, and turning the technical schools into private institutions. When the government enacted policies to encourage technical schools to cooperate with enterprises in order to climb out of their financial crisis, the commodification of labor and the commodification of education began to work together. Thanks to the government's push, these two forms of commodification were combined via the "combination of learning and working" (*gong xue jie he*)— "internship." In *The Great Transformation*, Polanyi (1957: 140) says, "The road to the free market was opened and kept open by an enormous increase in continuous, centrally organized and controlled interventionism," Indeed, the mutually complementary commodification of labor and education was shaped by strong Chinese governmental intervention. Interpreting the "combination of learning and working" in a neoliberal manner, the state closely controlled the dual commodification.

This dual commodification led to student interns' deskilling, alienation, fragmented social lives, and industrial injury via the "internship." Their overall experience provoked their feeling of "injustice." It led to the "moral crisis" of the technical schools. First of all, education is a fictitious commodity that cannot be produced and sold in the market. Education is a part of life. It is closely connected with human socialization. According to moral norms, the schools are responsible for nurturing students' personalities as well as imparting knowledge and skill to them. When technical schools sold their students' labor to Foxconn and no longer took charge of the students' socialization, they fell into a crisis of moral legitimacy. That is to say, the commodification of labor was a prerequisite for the technical schools' crisis of moral legitimacy. Second, this "moral crisis" is closely connected with the production process in Foxconn. Due to the "combination of learning and working," the commodification of education was intertwined with the commodification of labor. On account of the commodification of labor, student interns had to do work that was irrelevant to their majors and not helpful in promoting their skills. What is worse, their deskilling was strengthened by the production process. Deskilling, contrary to parent and student expectations, undermined the technical schools' moral legitimacy. In other words, the combined commodification caused technical schools to be caught up in a crisis of moral legitimacy.

Based on the technical schools' crisis of moral legitimacy, student interns moralized their feeling of "injustice" to mobilize and legitimize their struggles. They used moral discourse and presented themselves as victims to gain citizens' sympathy and support. With the help of media, they publicized their feelings and formed a moral identity. According to Silver, workers can have associational power and structural power. Neither form of power was possessed by workers in Foxconn. Global production chains have undermined workers' structural power, and the lack of associational rights has deprived them of their associational power. Thus, examining the mobilization, discourse, and strategy of the student workers' protest, we could discuss "moral power" in a further study. In contrast to Chun's "symbolic power," these student interns took advantage of the technical schools' "moral crisis" rather than use the "politics of shame" to exert pressure on Foxconn. This may have some implications for the study of workers' power in the future.

REFERENCES

Burawoy, M. 2008. The public turn: From labor process to labor movement. *Work and Occupations,* 35: 371–87.

Chun, J. 2009. *Organizing from the margins: The symbolic politics of labor in South Korea and the United States.* Ithaca, NY: Cornell University Press.

Culpan, T. 2010. Hon Hai net income misses estimates after raising China wages. *Bloomberg Business Week,* 30 August.

Foxconn Investigation Group. 2010. Foxconn Investigation Report. Retrieved from http://tech.sina.com.cn/it/2010-10-09/09574726168.shtml, October 2011.

Foxconn Technology Group. 2010. Company introduction. Retrieved from www.foxconn.com.cn/CompanyIntro.html, October 2011.

Hao, X., & Ren, C. 1999 China's vocational education reform and development analysis. *Journal of Northeast Normal University (Philosophy and Social Sciences),* 17: 90–95.

He, Z. 2009. Review of vocational education policy in China during past 30 years. *Education Development,* 3: 32–37.

Hooper, B. 2005. The consumer citizen in contemporary China. Retrieved from http://www.ace.lu.se/images/Syd_och_sydostasienstudier/working_papers/Hooper.pdf, November 2011.

Hu, Y. 2010. Students "forced" to work at Foxconn. *China Daily (Hong Kong Edition),* 26 June.

Hu, Y., & Wang, Y. 2010. Foxconn mulls move northward. *China Daily,* 29 June.

Hurst, W. 2009. *The Chinese worker after socialism.* Cambridge: Cambridge University Press.

Lee, C. K. 2007. *Against the law: Labour protests in China's Rust Belt and Sunbelt.* Berkeley: University of California Press.

Ma, S. 2005. Combining work with study: The inevitable requirements in the transformation of vocational education system. *Education Development,* 8B: 7–10.

Meng, X. 2004. Analysis of the development of private schools: Histories, models and prospects. *Journal of Jianghan University (Social Sciences),* 21(2): 97–100.

O'Brien, K. J., & Li, L. 2006. *Rightful resistance in rural China.* Cambridge: Cambridge University Press.

Palmer, M. 2006. The emergence of consumer rights: Legal protection of the consumer in the PRC. In K. Latham, S. Thompson, & J. Klein (Eds.), *Consuming China: Approaches to cultural change in contemporary China:* 56–81. London: Routledge.

Polanyi, K. 1957. *The great transformation.* Boston: Beacon Press.

SACOM. 2010. Report on Foxconn workers as machines. Retrieved from http://wenku.baidu.com/view/3a1e02d8d15abe23482f4d9a.html, October 2011.

Silver, B. 2003. *Forces of labor: Workers' movements and globalization since 1870.* Cambridge: Cambridge University Press.

Skocpol, T. 1979. *States and revolutions: A comparative analysis of France, Russia, and China.* Cambridge: Cambridge University Press..

Tao, Y., Li, P., & Yang, Y. 2002. Evolution and development tendency of China's professional and technical training education. *Journal of Beijing Union University,* 16(S6): 121–24.

Tsai, K. S. 2007. *Capitalism without democracy: The private sector in contemporary China.* Ithaca, NY: Cornell University Press.

Wright, E. O. 2000. Working-class power, capitalist-class interests, and class compromise. *American Journal of Sociology,* 105: 957–1002.

Yan, Y. 2009. *The individualization of Chinese society,* Oxford: Berg.

Zhang, L. 2001. *Strangers in the city: Reconfigurations of space, power, and social networks within China's floating population.* Stanford, CA: Stanford University Press.

Zhang, X. 1999. History of secondary education and the development of higher vocational education. *Vocational and Technical Education,* 17: 40–41.

Zhao, X. 2006. Ponders to some problems of vocational and technical schools in our country. *Journal of Nanyang Normal University (Social Sciences),* 5: 117–19.

Direct reprint requests to:

Yihui Su
Department of Sociology
Room 493, Block 3
Chang-chun-xin-yuan
Haidian District, 100871
Peking University
Beijing, People's Republic of China
e-mail: shadowblue@163.com

ACTIVIST PERSPECTIVE: THE SOCIAL COST HIDDEN IN THE APPLE PRODUCTS

DEBBY CHAN

Students and Scholars against Corporate Misbehaviour

ABSTRACT

Entering a train compartment in Hong Kong, we can always find people who are preoccupied with an iPhone or iPad. Apple products are more than just communication tools; they provide a benchmark of a trendy lifestyle. Despite the recent uprisings highlighting labor unrest at the Foxconn factory in Zhengzhou, China continues to produce 100,000 iPhones every day— it cannot meet the demands of the obsessed consumers. Consumers order iPhones at retailers and find that they are usually out of stock. From the fascinating advertisement they have seen, consumers are unaware of the social cost behind the Apple gadgets. As a labor NGO in China, it is the obligation of Students and Scholars against Corporate Misbehaviour (SACOM) to unveil the social cost to the public and let the consumers make a conscious choice.

Like most multinational corporations, Apple has issued a code of conduct, which states that human rights are to be upheld by their suppliers. The company declares that it will ensure compliance by the use of social audits. Disappointingly, a number of gross labor rights violations are found among Apple suppliers. Even worse, no remedy is provided by Apple when these violations are exposed. Can a nonlegally binding code of conduct guarantee respect for labor rights?

In 2009, there were rumors of cases of poisoning at Wintek, an Apple supplier, in Suzhou, China. Wintek produced touchscreens for iPhone at that time. The poisonings were confirmed by the local authority in Suzhou after a strike erupted

at Wintek in January 2010. Apple admitted that 137 workers had been poisoned by n-hexane, a solvent used to clean iPhone screens, in the "Supplier Responsibility Progress Report," released a year and a half after the incident. The victims suffered from nerve damage and exhibited symptoms of muscular weakness and atrophy. After a year of hospitalization, all of them were discharged from the hospital. While Apple stated that all the workers had been successfully treated, the workers were deeply worried about the possibility of relapse, as they were still experiencing problems like sweaty hands and feet and leg cramps. The workers wrote three letters to Apple earlier this year (2011), in the hope that Steve Jobs, who was himself suffering from health problems, would be sympathetic to them. To their surprise, they did not hear from Apple before Steve Jobs resigned in August.

Apple has not learned a lesson from the Wintek poisonings. In May 2011, an explosion in the polishing department of Foxconn in Chengdu, China, caused three deaths and 15 injuries. The Chinese media alleged that the blast was caused by the combustible dust accumulated in the department. Four months after the tragedy, Apple had still not given a public account of the cause of the explosion. Two months prior to the explosion, SACOM had been told by Foxconn workers in the polishing department that the shop floor was full of aluminum dust and the ventilation was poor. Every day they inhaled aluminum dust and their skin was covered by the dust as well. Even without the explosion, the conditions would still have been detrimental to workers' health. The Foxconn plants in Chengdu produce iPads for Apple. According to Foxconn's middle management, Apple regularly has representatives visit the factories in order to examine the quality of the products and productivity. It is evident that the problems had existed for months before the tragedy. Apple could have discovered the occupational safety hazards if it had strictly complied with its own code of conduct.

As well as documenting negligence in ensuring occupational safety, SACOM has also documented a wide range of labor rights violations found at Apple suppliers, including miscalculation of wages, excessive and forced overtime, and abusive use of student workers. Unfortunately, we have never received a response from Apple. In fact, SACOM has found that Apple usually ignores public criticism. Last year, the world was stunned by the spate of suicides at Foxconn, and suspected that some of the cases could be attributed to the company's harsh management methods. Without launching any investigation of the pressure of work on workers, Steve Jobs defended Apple's longstanding strategic partner, claiming that it was not running a sweatshop because there were restaurants, movie theaters, hospitals, and swimming pools in its factory. SACOM seriously questions the extent to which Apple honors its pledge with regard to the code of conduct. And SACOM has never heard that Apple will remedy the workers if rights violations are found in its suppliers.

"Our predicament is inflicted by the negligence of Apple, though we contribute so much to the revenue of the company. I also call on Apple to reform its audit

system to prevent [a] similar tragedy," said Mr. Jia Jing-Chuan, one of the victims of the Wintek poisoning case, angrily. A Foxconn worker in Zhengzhou declared that "I am not proud of producing iPhones. Indeed, I've never seen an iPhone in my life. I only hope Apple will respect our rights and stop exploiting workers." SACOM demands that the new CEO of Apple open his ears to the workers' grievances. It must reform the "no-response policy," rectify its suppliers' rights violations, and provide compensation to the workers as soon as possible.

As a research and campaign group, SACOM cannot monitor the working conditions at Apple suppliers on a regular basis. SACOM dreams that some day the workers will be able to speak for themselves and defend their rights through labor organizing. To achieve this, we need help from concerned consumers all over the world. We call on the consumers to support SACOM's cause, to demand a fair wage and genuine trade unions at Apple suppliers. If they do this, SACOM's investigations will no longer be necessary.

Direct reprint requests to:

Debby Chan
Project Officer of SACOM
P.O. Box 79583
Mongkok Post Office, Hong Kong
e-mail: debby@sacom.hk

TRADE UNIONS AND WORKERS IN THE PERIPHERY: FORGING NEW FORMS OF SOLIDARITY?

CRISPEN CHINGUNO

University of the Witwatersrand, Johannesburg, South Africa

ABSTRACT

Neoliberal globalization has resulted in the erosion of work in the core of the formal economy and the subsequent exponential rise of the informal economy in many developing countries. This is associated with a frag-mented and heterogeneous workforce. This has challenged workers' col-lective solidarity. This article draws cases from Zimbabwe and South Africa to explore how trade unions have made attempts to forge new forms of solidarity with workers in the informal economy. It examines how trade unions have responded to the proliferation of the informal economy. The results highlight trade unions' ambivalent position toward informal economy workers. The trade unions passed resolutions and adopted strategies to organize workers in the formal economy. However, many of these strategies ignore the voices of the workers in the informal economy and are not designed to adapt to but to transform the informal economy. Hence, they have not been successful. However, there is potential in the conceptualization of new forms of solidarity between trade unions and workers in the informal economy, but this conceptualization demands the organizational and structural transformation of trade unions.

INTRODUCTION

The rise of neoliberal globalization in the last four decades is linked to the tremendous growth of the informal economy in many developing countries. The structural changes in the global production and marketing supply chains have

367

resulted in the severe decline and fragmentation of trade unions globally (Chun, 2005; Silver, 2003). The erosion of the core, which is found within the formal economy, has pushed many workers into the periphery (the informal economy) where the work is precarious and not easily accessible to trade unions (Webster & von Holdt, 2005). The number of workers pushed into the informal economy has been unprecedented in the current dispensation.

In Southern Africa, the trade union movement has followed a similar trajectory. Trade union membership has severely declined. This has adversely affected union power and influence at national and supranational levels. This has raised debate on the possibility of the trade unions effectively engaging workers in the informal economy to offset the loss of union power and influence.

This article explores the potential for trade unions to forge new forms of solidarity with workers outside the formal economy. It examines the response of trade unions in Zimbabwe and South Africa to the proliferation of the informal economy. The article draws from Chun's work on how to build power for marginalized workers. Chun (2009) argues that it is possible to build power for marginalized workers by gaining leverage from new sources of power. Chun (2009) focuses on irregular workers employed outside the boundaries of regular work. This article, however, focuses both on irregular workers and on the self-employed in the informal economy. It asks whether the response by the trade unions in any way constitutes a new form of activism aimed at forging new forms of solidarity.

THE INFORMAL ECONOMY

In Africa and many other parts of the world, the predominance of the informal economy is not a new phenomenon. The earliest inquiry into the informal economy was informed by the famous work by Hart (1973) on a series of studies of the urban labor market in Ghana and the ILO's (1972) report on Kenya. Hart "discovered" a distinction and disaggregated the economy into the formal and the informal. The distinction is complex and often contested (Preston-Whyte & Rogerson, 1991). Despite growth in scholarship, we still grapple with understanding this phenomenon as the dichotomy between the two economies is blurred.

However, three main perspectives have conceptualized how we should understand the informal economy since its "discovery." The first is that of the dualist school, which views the two economies as distinct (Chen, 2004; Hart, 1973; ILO, 1972). The informal economy is seen as a response to a lack of opportunity in the formal economy. The structuralist school, on the other hand, focuses on the nature of the relationship between the two economies and proposes that there is a strong linkage characterized by dominance and subordination (Castells & Portes, 1989). The third perspective postulates a legalistic view. It argues that the informal economy has the capacity to grow but is hampered by a

lack of capital and by restrictive regulations that have to be complied with (De Soto, 1989).

A variant of the dualist perspective views the informal economy as survivalist in nature. Many people are forced into the informal economy as a last resort. However, Castells and Portes (1989) challenged this and argued that it is not simply about survival strategies but is concerned with the nature of production. Furthermore, there is no distinction between the informal and formal economies in real terms. The two form a continuum and are interdependent. For example, the stakeholders in the informal economy buy from and sell to those in the formal economy (Osarenkhoe, 2009; Webster et al., 2008).

The most recent authoritative definitions developed by the ILO (2011) refer to the informal economy "as all economic activity by workers and economic units that are in law or in practice not covered, or insufficiently covered, by formal arrangements". This embraces informal businesses and work in the formal and informal economies. However, this distinction may not be so clearly defined.

Similarly, Castells and Portes (1989:12) conceptualized the informal economy as "part of the economy that is unregulated by institutions of society, in a legal and social environment in which similar activities are regulated." Underlying this is the argument that the boundaries of the formal and informal sectors vary substantially in different geographical contexts and historical circumstances (Preston-Whyte & Rogerson, 1991). The state is responsible for marking the boundaries between the formal and informal economies. This, for example, implies that the informal economy in India and the informal economy in South Africa may not be the same but take different boundaries as determined by each state.

Drawing from the African experience, Mhone (1996) explained the significance of the informal economy and the reasons why it should not be viewed as a transient phenomenon. He draws from his famous thesis on enclave development in peripheral capitalism. He argues that the formal economies of African countries are based on exogenous growth. As a result, they only have the capacity to absorb a few people. The majority is thus forced to be creative and fight exclusion by joining the informal economy. Mhone views the emergence of the informal economy as a result of a creative response to vulnerability and exclusion. He argues that it is a permanent feature associated with developing African countries.

Marie Kirsten (1991) defines the informal sector by drawing from the work of Abedian and Desmidt. She acknowledges that defining the informal sector is a "complex and value ridden process" (Kirsten, 1991: 149). She argues that this is mainly influenced by the goals and expected outcomes of a particular study. In defining the informal and formal economies, what is significant is to know the purpose of the distinction. The working definition of the informal economy, for the purpose of this article, is that it refers to all economic activities characterized by precariousness, unfavorable conditions, lack of or ignorance about social security and health care, and the absence of any collective labor

organizations. This definition embraces, on account (self-employed), or in formal or informal enterprises.

The three perspectives are important for trade unions as they inform the way in which the unions conceptualize the informal economy. It is important from the start to note that the way trade unions conceptualize the formal and informal economies informs the way they respond. This determines the strategy that the unions can adopt.

THE LABOR MOVEMENT IN THE INFORMAL ECONOMY

Traditionally, trade unions are associated with workers in formal employment. They represent a collective voice of workers in the core. Neoliberal globalization has resulted in the decline of work in the formal economy and increased workforce heterogeneity. This has challenged the traditional collective sense of solidarity of workers. Furthermore, it has been linked to the decline of trade unions globally. However, this does not eliminate the conception of other forms of workers' solidarity (Wills & Simms, 2004). Wills and Simms (2004) argue that the changes in the world of work may result in workers seeking new forms of representation.

Trade unions in many countries have been forced to rethink their priorities and look into the informal economy as a space in which to offset their lost ground. However, the question of how to associate with workers in the informal economy is contested within the trade union movement.

There is a strongly held perspective that workers in the informal economy are not in a real sense workers, as they have no employment relationship. Hence, they cannot be organized by trade unions. Furthermore, linked to this perspective is the view that the informal economy is a transient phenomenon that will dissipate with the growth of the economy. According to this perspective, there is thus no need for trade unions and the state to respond to the growth of the informal economy (Gallin, 2001). They are expected just to pay lip service to it.

There are many other barriers associated with organizing workers in the informal economy. Workers in the informal economy are heterogeneous, and organizing them effectively usually demands more resources than the traditional union organizing initiative. Existing legislation may make it difficult by excluding the coverage of workers in the informal economy. In Malawi, for example, a trade union for informal economy workers was barred from registration because its members had no bargaining partner.

Work in the informal economy is highly heterogeneous and demands creativity and easy adaptation to different environments. On the other hand, trade unions are generally conservative. It is thus common for them to replicate the same strategies they are accustomed to in the formal economy. They in most cases have limited perceptions of what it means to work in the informal economy. For example, the Self Employed Women's Union of South Africa (SEWU), a

quasi–trade union in the informal economy in South Africa, employed former trade union shop stewards to organize street traders. This strategy failed dismally as the new organizers did not have any insight into what working in the informal economy entails.

Gallin (2001) argues that work in the informal economy in Africa cannot be viewed as atypical. According to the ILO (as cited in Gallin, 2001), over 60% of Africa's working population is employed in the informal sector. Given the resilience and dominance of the informal economy in developing countries, trade unions cannot afford to pay only lip service to workers in the informal economy. Traditionally, trade unions are the voices of the poor and the marginalized. However, they cannot claim to represent the majority of the workers if they elect to pay only lip service to workers in the informal economy.

The exponential rise of the informal economy in Southern Africa can be viewed both as a challenge and as an opportunity for trade union revival. This ambivalence is reflected in how the trade unions have responded to the informal economy. Gallin (2001) argues that it is only by organizing workers in the informal economy that trade unions can maintain sufficient membership and representativity to remain a strong social and political force. Many trade unions globally have been forced to adopt strategies embracing workers in the informal economy.

The organization of workers in the informal economy is not homogeneous. Workers in the informal sectors have been organized in the past and different forms of organizing have emerged. Thus, informal economy workers have different forms of relationships with trade unions in different parts of the world. They are organized in a variety of ways: in trade unions, associations, cooperatives, and other, hybrid, organizations. In India and Latin America, workers in the informal economy have organizations independent of trade unions, for example, SEWA of India. The ways in which such workers are organized are influenced by differences in political context, organizational culture, and the status of the economy.

Many scholars have argued for the need for and the potential of linking up the struggles of workers in the formal and informal economies. The 78th session (of the ILO) in 1999 emphasized the need to link the workers in the formal and informal economies by giving the workers in the informal economy an organizational and institutional framework to allow them to actively participate as social dialogue partners. Trade unions are viewed as institutions with the capacity to provide workers in the informal economy with such an opportunity.

METHODOLOGY

The empirical research on which this article is based was conducted between August 2010 and February 2011 as part of a large project exploring the state of the trade union movement in Southern Africa.

This article is based on qualitative research that draws from a triangulation of methods. These included archival and documentary analysis, interviews with key informants, and direct observations at meetings, workshops, and conferences. In all, 20 in-depth interviews were conducted. The documents analyzed included trade union congress resolutions, minutes of meetings, memoranda of understanding, and so forth. Key informants interviewed were selected from trade unions and informal economy organizations in South Africa and Zimbabwe. These included trade unions' general secretaries, presidents, and other officials from the unions and the informal economy organizations. The study explored the relationship between workers in the informal and formal economies by drawing cases from Zimbabwe and South Africa. The socioeconomic indicators of the two countries highlight important similarities and differences from which we can draw and analyze the response of trade unions.

THE INFORMAL ECONOMY AND TRADE UNIONS IN SOUTHERN AFRICA

Southern Africa is characterized by uneven economic growth and development. Some scholars view the regional economy as dual (formal and informal), characterized by high levels of poverty and unemployment and a diminishing formal economy that is incapable of absorbing the economically active population (Jauch, 2003).

The asymmetrical nature of economic development in the region is reflected in the variation in the levels of significance of the informal economy in different countries. South Africa has the most dominant, sophisticated, and diversified economy in the region. Hence, the informal economy, in terms of contribution to GDP, is least important in South Africa but more significant in Zimbabwe, Malawi, Mozambique, and Zambia. The informal economy contributes between 25% and 30% of the GDP in South Africa, while in Zambia, Zimbabwe, Malawi, and Mozambique it can be as much as over 80% (Jauch, 2004). Unemployment in the region is estimated to average between 30% and 40% . However, the regional average obscures cross-national variations.

Trade unions in Africa, unlike those in advanced economies, are more than just workers' organizations entrusted with regulating the employment relationship. They emerged, as argued by Buhlungu (2010:1), not only as "institutions to resist economic exploitation". They engaged in the struggles for "liberation and democracy, promotion of economic development and social reconstruction." In Africa, trade unions have always been aligned with the socioeconomic and political struggles despite low levels of trade union density. As social movements, they have always been at the center of social change and transformation beyond the workplace (von Holdt, 2002).

The first workers' organizations that emerged in Southern Africa and later evolved into trade unions emerged from workers' struggles against socioeconomic

and political injustices in both the informal and the formal economies. The Industrial and Commercial Union (ICU), which emerged in South Africa in 1919 and later spread its wings to other parts of Southern Africa, was very successful in organizing workers in the informal and formal economies on issues beyond the workplace both in urban and rural settlements (Wickins, 1978). Workers in the formal and informal economies forged alliances to offset their inherent powerlessness. The challenges they faced demanded a mass-based strategy that embraced workers across the traditional boundaries. Although the ICU later collapsed as capitalism advanced, it nevertheless highlighted the significance of unity among workers across the traditional boundaries.

During the despotic colonial era, trade unions in Southern Africa thus developed a special interest in the struggle for liberation and democracy. They retained this characteristic beyond colonialism and apartheid. The Congress of South African Trade Unions (COSATU), for example, retained a broad discourse of social justice focusing on the poor and marginalized (von Holdt & Webster, 2008). This differs from the traditional notion of trade unionism, which focuses mainly on regulating the employment relationship.

The collapse of the interventionist (distributive) economic approach in Southern Africa in favor of neoliberal market hegemony has exposed many workers to severe exploitation and uncertainty. A significant proportion has been forced to join the informal economy for survival. This has also deepened the divisions between workers in the formal economy and those in the informal economy. This has had a profound impact on the state of the trade union movement and the way it constructs its response.

Many of the trade unions in Southern Africa have adopted some features of the traditional "Western" model of unionism. They focus on workers within the employment relationship, and thus tend to relate only to informal workers who are in such a relationship. This model pays only lip service to workers in the informal economy, which is viewed as only a transient phenomenon.

The trade unions face challenges in forging a new alliance between workers in the formal and informal economies. Neoliberal globalization has covertly and overtly antagonized workers in these segments (Barchiesi, 2011). Still, Chun (2005) argues that the negative forms of marginality can be transformed into a concrete source of power for workers in the periphery and their organizations.

THE DIFFERENT WORLDS OF WORK

Webster and von Holdt (2005) adapted a typology that disaggregated the different worlds of work. They drew from the South African experience and identified increased differentiation in the world of work, which they divided into three broad zones: the core, the noncore, and the periphery. In the core are workers in secure forms of employment. This is the zone from which trade unions draw most of their members. Trade union membership has thus remained robust in this zone.

The second zone is characterized by job insecurity, poor remuneration, alienation, and very limited access to protection by the established industrial relations regime. In the third zone is the periphery of unemployment and the informal sector (Webster & von Holdt, 2005). Most of the workers in the periphery zone have neither an employment relationship nor a fixed income. In this article, however, the periphery is defined to also embrace the noncore zone.

The erosion of the formal economy and the decline in trade union membership are connected. In Zambia, for example, union density in the 1970s and 1980s was between 70% and 80%. It had dropped to below 50% by 2000. Formal employment declined from 17% of working people in 1992 to 10.4% by 1999. The strongest trade union, the Zambian Mine Workers Union, fell by 13,000 members from 38,000 members between 1998 and 2002 (Heidenreich, 2007). This study evaluates how the trade union movements in Southern Africa have responded to the proliferation of the informal economy. It addresses this by drawing from the experience of Southern Africa Trade Union Coordinating Council (SATUCC) affiliates in Zimbabwe and South Africa.

THE SOUTHERN AFRICA TRADE UNION COORDINATING COUNCIL

SATUCC emerged in 1983. Its main objectives are to promote, defend, and articulate trade union rights and the trade union perspective to regional structures. It emerged at a time when the developmental corporatist labor regime was dominant in the region. This distributive ideological orientation ensured the advancement of the interests of the workers and the poor. One of the key focus areas of SATUCC is to influence the policies of the Southern African Development Community (SADC) (LaRRI, 2001). With the trade unions concerned that the narrow economic concerns of SADC states had overridden the political aspirations of regional integration, a fundamental challenge was to define a development strategy to challenge the neoliberal regimes that had increasingly been introduced since the mid-1980s (LaRRI, 2001).

The evolution and function of SATUCC must be understood in the context of global trade union internationalism, as it is one of its prototypes. It is a representative of a form of international trade unionism dependent on international government regional and/or economic structures, similar to the independent European Trade Union Confederation (ETUC). Significant regional trade union structures have existed in other regions such as Asia and Europe (Waterman, 2001). These regional trade union structures may be autonomous or subordinate to global trade union structures. SATUCC's institutional capacity and ability to assist trade unions in the region and to strategically intervene in policy decisions has been severely hampered by several factors (LaRRI, 2001). These include the absence of a permanent secretariat and the high level of donor dependency (Buhlungu, 2010; LaRRI, 2001).

Thus, despite its ambitious objectives and vision, SATUCC has been moribund for most of the years of its existence. In recent years, however, there have been fresh attempts to rejuvenate it. It recently passed a resolution designed to inform the response of trade unions to the proliferation of the informal economy.

South Africa

South Africa is the biggest economy in Africa, contributing over 40% of the continent's GDP (Barchiesi, 2011). Despite relatively high levels of economic growth and activity, the informal economy in South Africa occupies an important part of the economic landscape. It contributes 20% of the GDP and employs 20% of the economically active population (Jauch, 2004).

After the attainment of democracy, the trade union movement in South Africa was cited in the 1990s as one of the few in the world that was gaining membership (Silver, 2003). At that time, South Africa was said to have the fastest growing union density in the world. This was entirely understandable, given the role that the trade unions played in the democratization process and the labor-friendly labor relations regime adopted post-1994.

However, the rise of neoliberalism has reversed the growth in union density. It has resulted in the reorganization of production and the fragmentation of work. Trade union density has thus declined from a peak of 57% in 1994 to 25% in 2007 (Pillay, 2008). This poses a threat to the legitimacy and future of the unions. As mass-based organizations, trade unions can maintain legitimacy, representativeness, and credibility as a political and social force only if they succeed in engaging workers in the new forms of employment and the broader society.

Indeed, the relevance of the trade union movement as a force for social transformation in postapartheid South Africa has been questioned many times in the current neoliberal context. Barchiesi (2011) critically questions the relevance of waged labor as a force to reckon with in the struggle for social transformation in the current neoliberal dispensation. In 1997, COSATU set up the September Commission, tasked to review "the present and future role of COSATU and how it can influence socio-economic and political events" (COSATU, 1997). The commission identified informalization of work as one of COSATU's major challenges. According to the commission, COSATU faced a formidable challenge in engaging workers in the informal economy. The commission posed the question of whether COSATU should embark on organizing workers in the informal economy directly or develop alliances with the workers' organizations.

There are many ways of organizing workers in the informal economy. In South Africa, strong views are held: on the one hand, that workers in the informal economy can be organized through the expansion of the formal trade unions' organizing effort into the informal economy; or, on the other hand, that they can be organized independently through organizations representing these workers. Both of these approaches have been adopted.

The trade unions that are organizing in sectors dominated by informal economy activities have made attempts to organize workers in the informal economy both directly and indirectly. This has involved engagement with independent organizations representing workers in the informal economy. Conversely, a number of organizations independent of trade unions but representing workers in the informal economy have emerged.

In 2002, COSATU launched a national organizing campaign targeting workers in the informal economy. As an example of one of the first unions to be involved, the South African Transport and Allied Workers Union (SATAWU) has made strenuous efforts to directly organize taxi drivers, security guards, and cleaners in the informal economy. In terms of the taxi industry, for example, SATAWU has recruited former taxi drivers as organizers and lobbied the government to influence the setting up of collective bargaining structures. SATAWU has introduced a structure for shop floor representation similar to that in the formal economy and appointed shop stewards and organizers. At the center of SATAWU's strategy is the goal of transforming the informal into the formal. However, the union has appointed fewer than 10 organizers in a sector with over 200,000 workers.

The attempts by SATAWU to organize in the taxi industry have not been very successful. There are many reasons for this. One is the lack of understanding by SATAWU of the meaning of work in the informal economy. Thus, it has replicated the same strategies it is accustomed to using in the formal economy. For example, the use of former taxi drivers as organizers may not be ideal in the informal economy. This may demand a new structure of union organizing propelled by a different type of organizer.

The South African Municipalities Workers Union (SAMWU) has made similar efforts. It passed resolutions and adopted strategies to organize street vendors and garbage collectors in major urban centers. At its 7th Congress in 2003, SAMWU adopted a three-year organizational renewal plan, which targeted externalized workers. The Southern Africa Clothing and Textile Workers Union (SACTWU) has engaged with home industrial workers. It has made attempts to establish a collective bargaining relationship with clothing retailers who contract home workers through outsourcing.

As shown in the above cases, the effort by COSATU affiliates is mainly inclined toward giving "moral" support to workers in the informal economy, while maintaining a focus on sectors where employment relationships exist. Many trade unions have in theory adopted strategies to organize workers in the informal economy but have yet to put them into practice.

At the same time, a number of organizations focusing on organizing workers in the informal economy have emerged, apparently in part due to neglect by trade unions. For example, the Self Employed Women's Union of South Africa (SEWU) followed along the lines of the Self Employed Women Association (SEWA) in India. SEWU emerged in 1994 to represent the interests of women

in the informal economy. It reached a peak of 4,930 members in 2003 with offices in at least five provinces, before it collapsed in 2004. The reason why SEWU collapsed is contested, but many argue it was because it was not driven from below. In addition it was over-dependent on external donors to advance its agenda.

However, we can draw a number of lessons from SEWU's brief experience with workers in the informal economy. Von Holdt and Webster (2008) evaluated SEWU's experience and viewed it in some ways as a new form of organizing. SEWU recruited former trade union organizers. These organizers, however, failed to adapt to the demands of organizing in the informal economy where in most cases there is no employer. Von Holdt and Webster proposed a different type of organizer and organization with a new culture and identity. According to this proposal, the new organizers must seize the initiative to be creative and do things differently. They have to address broader issues in the Southern African context, such as sexual harassment and HIV and AIDS at work. In addition, the trade union must not be perceived as an organization for formal workers only. Expanding to engage with informal workers demands political will, commitment of resources, sustained organizational effort, and strategic innovation drawing from new associational strategies (von Holdt & Webster, 2008).

Historically marginalized groups such as women and youth form a predominant part of the informal workforce. SEWU adopted an organizational strategy to organize women as a separate category of workers. This was designed to avoid pervasive male domination. It was designed to empower women before they joined the rest of the group (von Holdt & Webster, 2008).

Other informal economy organizations function as quasi-NGOs, placement agents, or a mixture of these with some elements of trade unionism. A number of them draw from social movement tradition. This reflects the heterogeneity of workers within the informal economy.

There is no single national organization that can claim to represent the interests of the workers in the informal economy in South Africa. Instead, representation of the workers in the informal sector is highly fragmented and contested. Most organizations are funded by international donors with no mass-based inclination or support. Drawing lessons from the experience of SEWU, von Holdt and Webster (2008: 350) concluded that

> It is unlikely that organizations in the peripheral zone will be able to replicate SEWU's success in a sustainable way unless they are able to form broader alliances with more stable and well resourced organizations and institutions such as churches or formal sector trade unions.

COSATU passed a resolution after the collapse of SEWU to facilitate the formation of an affiliate union to organize in the informal economy. However, although it was passed in 2004, this resolution is yet to be implemented.

Zimbabwe

According to Kanyenze and colleagues (2011), the percentage of the population employed in the formal economy in Zimbabwe declined from 14% in 1980 to 10% in 2004 and further to about 6% by 2007. By 2004, four out of five jobs were informalized. The exponential rise in the informal economy in Zimbabwe is associated with the economic downturn as a result of the failure of the economic restructuring program and the crisis that followed the chaotic land reform program.

While the growth of the informal economy in Zimbabwe poses a threat to trade unions, the engagement in social dialogue by workers in the informal economy has played an essential role in helping to provide them with representation. Such engagement may take place through collective bargaining or lobbying bureaucrats (ILO, 2002). Thus a number of informal economy organizations have emerged to represent the interests of the stakeholders. These organizations reflect the heterogeneity and complexity associated with the informal economy.

The growth of the informal economy resulted in the proliferation of informal sector associations including the Zimbabwe Informal Traders Association, the Cross Border Association, the Tuck Shop Owners Association, Art and Craft, and others. These organizations emerged without a meaningful overall organizational structure of informal sector associations. Most of them operated individually and on an ad hoc basis. This process lacked coordination and resulted in duplication and fragmentation (Kanyenze, 2004).

In 1995, the Zimbabwe Informal Sector Association (ZISA) was launched in response to the growth of the informal economy. Its main objective was to enable the informal sector operators to speak with one voice.

The collapse of the formal economy and the economic crisis resulted in an increase in cross border trading. This resulted in the formation of the Cross Border Association of Zimbabwe (CBTAZ). Its objectives are broad and embrace business interests and citizenship. CBTAZ engages itself in a number of issues to advance the interests of its members. It is involved in negotiating business deals and funding for its members from financial institutions, and in obtaining funeral insurance cover, medical insurance, and travel documents, dealing with the government and other institutions.

The broad range of interests of the informal economy organizations reflects the heterogeneity of the players in the informal economy. The organizations active in the informal economy in Zimbabwe represent the minority in the sector. Many of the players in the informal economy do not view the informal economy organizations such as ZISA and CBTAZ and trade unions as organizations representing their interest.

Trade unions in Zimbabwe have not significantly engaged with the informal economy workers and organizations. They have traditionally adopted an ambivalent position toward workers in the informal economy because of the inherently

blurred distinction between employer and employee. Furthermore, trade union density in the formal economy is very low. This compels unions to focus on the formal economy, which is much easier to organize and does not pose any ideological contradiction.

However, the impact of retrenchment following the failure of the structural adjustment program that was initiated by the Bretton Woods Institutions forced the trade unions to rethink how they should relate to the workers in the informal economy. A significant number of retrenched workers who were former trade union members were absorbed into the informal economy. Thus, trade unions could not just pay lip service to their former members. The Zimbabwe Congress of Trade Unions (ZiCTU) commissioned a study to look into the survival strategies of retrenched workers in the informal economy. The ZiCTU thus facilitated the formation of the Informal Sector Traders Association in 1990 to assist workers in the informal sector. This project later collapsed, but it highlighted the significance of collaboration between workers in the formal and informal economies.

Following this, the ZiCTU facilitated a workshop with the help of the ILO to discuss the formation of a well-coordinated informal economy association. At this point, the ZiCTU was not clear on how to engage workers in the informal economy. It had not decided whether to organize workers in the informal economy directly through existing formal economy trade unions or to set up new informal economy unions. It, however, acknowledged the significance of collaboration with the workers in the informal economy.

The workshop identified areas of potential trade union membership in the informal economy such as clothing, transport, engineering, and others. It also identified the challenges of organizing workers in the informal economy. The workshop culminated in a joint project between the ZiCTU and the Commonwealth Trade Union Council (CTUC) in 2001, aimed at facilitating the organization and coordination of informal economy workers. In addition, the ZiCTU opened a special department that specifically deals with workers' issues in the informal economy.

The trade union movement's response to the collapse of the formal economy is best represented by its role in facilitating the formation of the Zimbabwe Chamber of Informal Economy Associations (ZCIEA) in 2004. This was a result of collaboration between the Zimbabwe Congress of Trade Unions (ZCTU) and the CTUC. ZCIEA became a national organization representing informal traders' associations with over a million members. Its main objective is to bridge the gap between the trade union movement and informal economy workers and to build the capacity of informal workers to secure economic and social justice (Watson, 2010).

ZCIEA has the potential to reach more than 5 million persons, compared to less than 1 million in the formal economy. In an interview, the president of ZCIEA claimed a membership of over 2 million. If accurate, this makes it

Zimbabwe's biggest collective mass-based organization, spread across all regions of the country.

Many of the members of ZCIEA, including some in the executive structures, are former trade union members. They played a significant role in the establishment of ZCIEA as a collective voice to represent and advance the interest of the workers in the informal economy.

The main objectives of ZCIEA are succinctly captured in its mission statement. Its aim is to "alleviate poverty through transforming informal economy activities into the main stream activities" (Pollack, 2011: 61). This vision is grounded in the reestablishment of a stable economy. The dominant perspective in Zimbabwe views the informal economy as a temporary phenomenon that can be removed by the restructuring of the economy. The vision of ZCIEA is, however, ambivalent as, conversely, it acknowledges the persistence of the informal economy. This has influenced the way in which trade unions have responded to the proliferation of the informal economy.

In an interview, the president of ZCIEA has emphasized that the linking up of workers in the formal and informal economies opens up a platform for direct engagement with the government for workers in the informal economy. This was not possible before. The social dialogue partners in Zimbabwe have proposed to include the informal economy organizations in the national social dialogue forum. These are some of the synergies realized in linking up the struggles of workers in the formal economy with those of workers in the informal economy.

However, there is no evidence of trade unions in Zimbabwe engaging directly with workers in the informal economy aside from the initiative by ZCTU.

Summarizing the Evidence

Table 1 summarizes the size of the informal economy, lists the labor federations affiliated to SATUCC, and states whether they engage workers in the informal economy.

These results as highlighted in Table 1 are not surprising but reflect the general ambivalence of trade unions with regard to informal economy workers.

DISCUSSION

There are both striking similarities and striking differences in the ways in which trade unions in South Africa and Zimbabwe have responded to the rise in the informal economy. These responses are informed by the ways in which the trade unions conceptualize the informal economy.

Schiphorst (2009) reviewed the progress of the trade unions' engagement with informal economy workers in South Africa after the September Commission and the 2000 COSATU 7th Congress. The Congress reaffirmed the recommendations

Table 1. Trade Union and the Informal Economy in Southern Africa

Country	Union federation	Membership	Union informal economy strategy	Contribution of informal economy to employment (%)	Informal economy share of GDP (%)	Trade union density (%)
Tanzania	TUCTA	406,000	Yes	60	60.2	20
Botswana	BFTU	73,399	No	45	34.6	20
Malawi	MCTU	137,222	No	80	42.1	25
Lesotho	LTUC	5,388	No	55	33.3	10
Zimbabwe	ZiCTU	247,713	Yes	90	63.2	20
South Africa	COSATU	2,006,810	No	25	29.5	25
South Africa	FEDUSA	366,748	No	25	29.5	25
South Africa	NACTU	224,700	Yes	25	29.5	25
Swaziland	SFTU	20,576	Yes	55		20
Namibia	NUNW	100,300	No	45	33.4	58
Mozambique	OTM-CS	111,099	Yes	60	42.4	20
Angola	CGSILA-CM	93,000		65	45.2	20
Angola	FSA-CS	30,346	Yes	65	45.2	20
Zambia	ZaCTU	317,201	Yes	80	50.8	30

Source: Field research and Schneider (2007).

made by the commission and further adopted strategies for organizing workers in the informal economy. Schiphorst's review indicates that apparently nothing happened between 1997 and 2000. COSATU adopted a strategy on how to organize workers in the informal economy at the 7th Congress in 2000 but has not been able to put it into practice since then.

Despite the fact that COSATU adopted strategies to engage workers in the informal economy, a number of the senior trade union executives who were interviewed did not share a similar perspective. Many of them subtly perceive the workers in the informal economy as the enemy. This is apparently the general view of most workers in the formal economy. The other two major trade union federations, the Federation of Unions of South Africa (FEDUSA) and the National Council of Trade Unions (NACTU), have not even adopted strategies to organize workers in the informal economy. The evidence from Schiphorst and the interviews conducted suggest that most of the COSATU affiliates have done nothing tangible. Most have made only marginal efforts to organize workers in the informal economy. However, there are signs of light at the end of the tunnel. There is no doubt that the trade union movement in South Africa recognizes the existence of vulnerable and unprotected workers in the informal economy and the significance of linking up with their struggles.

In Zimbabwe, as highlighted earlier, trade unions recognize the significance of linking up with the struggles of the workers in the informal economy. However, the trade unions in Zimbabwe have adopted strategies designed not to adapt to the experiences of the workers in the informal economy but to transform the informal into the formal. These strategies pay limited attention to the needs and perceptions of the workers in the informal economy. More relevant is the ZCTU-CTUC-level collaboration with informal workers' organizations through ZCIEA.

Success in organizing the informal economy has been marginal for most of the trade unions that have attempted it. Drawing from the cases used in this study and in Heidenreich (2007: 4), it is clear that trade unions have ambiguous and flawed perceptions of work in the informal economy. They view the informal economy as a temporary problem that will be fixed by the growth of the economy. Many of the trade unions thus have adopted strategies designed to transform the informal economy into a formal economy. This response is, however, irrelevant in the African context where the informal economy is both dominant and a permanent aspect of the economic landscape.

Although many of the trade unions in the region acknowledge the significance of the informal economy, they exhibit ambivalence on how to engage with workers in the informal economy. They espouse the traditional notion of trade unionism based on standard employment. This is despite the fact that the majority of the economically active population is in the informal economy (Jauch, 2004).

The ambivalence of trade unions over organizing workers in the informal economy raises a number of questions. Ratman (1999) adds an important insight to

this debate. He argued that the interests of organized workers in the informal economy and the formal economy are contradictory, as organized labor perceives workers in the informal sector as a threat to their current status. The workers in the informal sector, on the other hand, fear being swallowed and having to pursue the interests of the unions (Kanyenze, 2004).

In particular, most trade unions view the workers in the informal economy as a threat and hence avoid making any serious engagement. The trade unions traditionally enjoyed sociopolitical and economic influence beyond the workplace. They are apprehensive about any threat to their hegemony and legitimacy. Well-organized workers in the informal economy may be a threat to this hegemony and legitimacy, as they may demand more space and recognition (Sanzvenga, 2011). For example, informal workers may demand a larger voice in the national tripartite dialogue and in multilateral organizations, such as the International Labor Organization (ILO).

Von Holdt and Webster (2008) identified ideological differences between workers in the formal and informal as a major obstacle to organizing. They cited examples of street traders who have no clear negotiating partner and suffer from tension between individual and collective interests. This clearly highlights a different terrain, which may demand a different form of organization from that of the traditional trade union. It also demands a clear understanding of the nexus between individual and collective interests. This applies to the cases cited above.

We can also draw a link between the proliferation of the informal economy and the increasing feminization of informal work. There is a marked increase in female labor force participation globally (Ledwith et al., 2010). Women are taking most of the new jobs, which are predominantly informal and precarious. Trade unions face challenges in accessing these workers. In SADC, women constitute 40% of the labor force. In Zimbabwe, they constitute 24% of the formal economy labor force and 54% of the informal economy. Youth are also over-represented in the informal economy. Trade unions should therefore give special attention to women and young workers if they are to be successful in forging new alliances and organizing in the informal economy.

CONCLUSION

This article uses cases from South Africa and Zimbabwe to explore how the trade unions in Southern Africa have responded to the rise in the informal economy. The findings reveal that trade unions in Southern Africa recognize the need to redefine their priorities in relation to the workers in the informal economy. They generally recognize the significance of broadening their struggles to embrace workers in the informal economy. Furthermore, they recognize that negative forms of marginality can be transformed into a concrete source of leverage (Chun, 2009).

However, trade unions in Southern Africa have made only limited attempts to achieve this. They lack clear strategies to engage workers in the informal economy beyond the traditional forms of organizing. The union perspective and response are not surprising, as they are informed by conventional notions of trade unionism. Underlying the general trade union response in the cases of South Africa and Zimbabwe is the perception that the informal economy is a transient phenomenon, despite overwhelming evidence to the contrary.

At the center of the argument presented in this article is the significance of linking the struggles of the workers in the formal economy and those of the workers in the informal economy. Trade unions provide the experience and strength that is often missing from informal economy organizations. However, the divide between the workers in the formal economy and those in the informal economy remains strong, both covertly and overtly, despite attempts to bridge the gap. Success demands mobilization, organizational innovation, and commitment of resources by the unions.

In conclusion, the article sees potential in trade unions linking up with the informal economy struggles. However, organizing in the informal economy demands a shift in the trade unions' organizational culture and strategy. The article draws from Barchiesi (2011) and strongly questions the relevance of focusing on waged labor as the center of social emancipation and transformation in economies dominated by the informal economy and precarious employment. Instead, the trade unions must broaden the struggle and embrace socioeconomic and political struggles beyond the workplace. This demands a vision of a different society based on equality and social justice, not one centered on waged labor.

REFERENCES

Barchiesi, F. 2011. *Precarious liberation.* Albany, NY: SUNY Press.

Buhlungu, S. 2010. *A paradox of victory: COSATU and the democratic transition in South Africa.* Scottsville, South Africa: University of KwaZulu–Natal Press.

Castells, M., & Portes, A. 1989. World underneath: The origins, dynamics, and effects of the informal economy. In A. Portes, M. Castells, & L. A. Benton (Eds.), *The informal economy: Studies in advanced and less developed countries:* 11–37. Baltimore: Johns Hopkins University Press.

Chen, M. 2004. Rethinking the informal economy: Linkages with the formal economy and the formal regulatory environment. Retrieved from www.un.org/docs/ecosoc/meetings/2006/forum/Statements/Chen's%20Paper.pdf, December 2010.

COSATU. 1997. The report of the September commission on the future of the unions. Retrieved from http://www.cosatu.org.za/docs/reports/1997/septcomm.htm, December 2011.

Chun. J. 2005. Public dramas and the politics of justice: Comparison of janitors' union struggles in South Korea and the United States. *Work and Occupations,* 32(4): 486–503.

Chun, J. 2009. *Organizing at the margins: The symbolic politics of labor in South Korea and the United States.* Ithaca, NY: Cornell University Press.

De Soto, H. 1989. *The other path: Economic answer to terrorism.* New York: HarperCollins.

Gallin, D. 2001, Propositions on trade unions and informal economy in times of globalization. *Antipode,* 33: 531–549.

Hart, K. 1973. Informal income opportunities and urban employment in Ghana. *Journal of Modern African Studies,* 11: 61–89.

Heidenreich. G. 2007. Trade unions and the informal economy in Zambia: Building strength or losing ground? Retrieved from http://opus.ub.uni-bayreuth.de/volltexte/2007/317/pdf/Heidenreich05_komplett.pdf, January 2011.

ILO. 1972. *Employment, income and equality: A strategy for increasing productive employment in Kenya.* Geneva: ILO.

ILO. 2002. Decent work and the informal economy. Retrieved from http://www.ilo.org/public/english/standards/relm/ilc/ilc90/pdf/rep-vi.pdf, April 2011

ILO. 2011. Resource guide on the informal economy, Retrieved from http://www.ilo.org/public/english/support/lib/resource/subject/informal.htm, December 2011.

Jauch, H. 2003. Trade unions in Southern Africa. Retrieved from www.sarpn.org/documents/d0000625/P598-Trade.pdf, December 2010.

Jauch, H. 2004. Labour markets in Southern Africa. Retrieved from www.larri.com.na/research/Labour%20Markets%20in%20Southern%20Africa.doc, January 2011.

Kanyenze, G. 2004. Giving voice to the unprotected workers in the informal economy in Africa: The case of Zimbabwe. Retrieved from www.ilo.org/public/english/region/afpro/harare/download/discussionpapers/discussion_paper_no_22.pdf, February 2011.

Kanyenze, G., Kondo, T., Chitambara, P., & Martens, J. (Eds.). 2011. *Beyond the enclave: Towards a pro-poor and inclusive development strategy for Zimbabwe.* Harare: Weavers Press.

Kirsten, M. 1991. A quantitative assessment of the informal economy. In E. Preston-White & C. Rogerson (Eds.), *South Africa's informal economy:* 148–160. Cape Town: Oxford University Press.

LaRRI. 2001. *Building a regional labour movement: The Southern African Trade Union Co-ordinating Council*. Windhoek, Namibia: LaRRI.

Ledwith, S., Britwum, A., Chong, P., Chinguno, C., Douglas, K., Certeza, R., Munakamwe, J., Mijeoung, K., Portilho, J., Odgie, J., Serrano, M., & Yilmaz, G. 2010. Gender and trade unions: A research report to the Global Labour University. Retrieved from www.global-labour-university.org/fileadmin/GLU_research_projects/Gender_and_trade_unions/Summary_report_for_GLU_webpage_Mar_2011_1_.pdf, November 2011.

Mhone, G. (Ed.). 1996. *The informal sector in Southern Africa. An analysis of conceptual, research and policy issues.* Harare: SAPES.

Osarenkhoe, A. 2009. The oxymoron of informal sector: A framework for conceptualizing informal sector as an enabler of economic development in developing countries. *Journal of International Business and Economics,* 9: 118–131.

Pillay, D. 2008. Globalization and the informalization of labor: The case of South Africa. In D. Bieler, I. Lindberg, & D. Pillay (Eds.), *What prospects for transnational solidarity?* 45–64. London: Pluto Press.

Pollack, B. 2011. Building a labor movement in a failed state: The case of Zimbabwe. *New Labor Forum*, 20(2): 57-63.

Preston-Whyte, E., & Rogerson, C. (Eds.). 1991. *South Africa's informal economy.* Cape Town: Oxford University Press.

Ratman, V. 1999. Trade unions in the informal sector: Finding their bearings. Retrieved from www.ilo.org/wcmsp5/groups/public/—ed_dialogue/—actrav/documents/publication/wcms_111494.pdf, November 2011.

Schiphorst, F. 2009. The informal economy and casualisation of labour. Retrieved from www.iss.nl/Portals/Work-Employment-and-Globalization-at-the-ISS/Growing-informalisation-of-the-labour-market, February 2011.

Schneider, F. 2007. The size of the shadow economies of 145 countries all over the world: First results over the period 1999 to 2003. *Journal of Population Economics,* 20: 495–526.

Silver, B. J. 2003. *Forces of labour: Workers' movements and globalization since 1870.* Cambridge: Cambridge University Press.

von Holdt, K. 2002. Social movement unionism: The case of South Africa. *Work, Employment and Society,* 16: 283–304.

von Holdt, K., & Webster, E. 2008. Organizing on the periphery: New sources of power in the South African workplace. *Employee Relations,* 30: 333–354.

Waterman, P. 2001. Trade unions Internationalism in the age of Seattle, *Antipode,* 33:313-336

Watson. A. 2010. The chamber that delivers: A report from the ZCIEA Congress, Zimbabwe. Retrieved from www.tuc.org.uk/international/tuc-18813-f0.cfm, April 2011.

Webster, E., Benya, A., Dilata, X., Joynt, K., Ngoepe, K., & Tsoeu, M. 2008. Making visible the invisible: Confronting South Africa's decent work deficit. Retrieved from http://www.labour.gov.za/downloads/documents/research-documents/webster.pdf, November 2011.

Webster, E., & von Holdt, K. (Eds.). 2005. *Beyond the apartheid workplace.* Scottsville, South Africa: University of KwaZulu–Natal Press.

Wickins, P. L. 1978. *The industrial and commercial workers' union of Africa.* Cape Town: Oxford University Press.

Wills, J., & Simms, M. 2004. Building reciprocal community unionism in the UK. *Capital and Class,* 82: 59–84.

Direct reprint requests to:

Crispen Chinguno
Department of Sociology
C/O SWOP, University of the Witwatersrand
P Bag X 3 Wits 2050
Johannesburg, South Africa
e-mail: crispenchinguno@gmail.com

HOW DO UNIONS RESPOND TO NONSTANDARD WORK ARRANGEMENTS? RELATIONS BETWEEN CORE AND NON-CORE WORKERS IN A FOOD PROCESSING FACTORY (ARGENTINA, 2005–2008)

RODOLFO ELBERT
University of Wisconsin

ABSTRACT

The fragmentation of the working class in Latin America over the past three decades has coincided with the decline of labor organizing among workers employed in the formal economy. Research has suggested that the economic segmentation of the working class explains this declining relevance of unions. However, recent Argentine history (2003–2010) suggests that the labor movement has become increasingly relevant again, due to protests organized by workers employed in firms of the formal economy. Drawing on 14 months of fieldwork in the city of Pacheco (Argentina), the present study analyzes how non-core workers hired by a formal economy firm successfully gained core labor contracts in the framework of this labor revitalization. The results suggest that collective action in a context of labor fragmentation is possible, but that it depends on the emergence of a grassroots democratic strategy of solidarity that brings together core and non-core workers.

The conventional wisdom in scholarly discussions of Latin American labor movements is that labor fragmentation makes it increasingly difficult for workers employed in the formal economy to engage in collective action. This fragmentation explains why social conflict in the region in the past decades has occurred mainly within the growing informal sectors, as in the movements of unemployed workers (Collier & Handlin, 2005; Roberts, 2002). Contrary to the

expectations of this literature, however, recent Argentine history points to the increasing relevance of protests by workers employed in firms of the formal economy (Palomino, 2007).

This article focuses on the organizing strategies of workers from K-Foods Argentina, a U.S.-owned food-processing plant employing 2,400 workers in Pacheco. The fieldwork was funded by a National Science Foundation Doctoral Dissertation Research Improvement Grant. Fictional names are used to refer to the companies mentioned here. Between 2005 and 2008, the Pacheco plant of K-Foods was the site of two successful organizing campaigns over the issue of nonstandard work arrangements, with the result that the company agreed to give regular permanent contracts to all of the temporary workers and some of its outsourced workers.

This case of labor militancy contradicts prevalent theories about the causal links between labor fragmentation and union struggles. Instead of assuming that unions are unable to organize in a fragmented scenario, this case calls for a more nuanced understanding of the interactions between social structure, politics, and organizational dynamics in the making of labor protests. This successful example of labor militancy across the standard/nonstandard divides suggests specific strategies that make organizing possible in the modern fragmented labor context. At the center of this experience, there are grassroots strategies that non-core workers developed in order to obtain the support of core workers for their demands.

NONSTANDARD WORK ARRANGEMENTS AND UNION STRATEGIES IN THE GLOBAL SOUTH

Core workers are those with regular and stable employment contracts, employed by medium or large size companies of the formal sector. In opposition to these workers, "non-core workers" (Chinguno, 2011; Webster & Von Holdt, 2005) or "nonstandard workers" (Carré & Joshi, 2000) are those who are employed in firms of the formal economy but who are subject to temporary work, lack of guaranteed income and benefits, or a loose and/or triangulated relationship with their employer (Cobble & Vosko, 2000).

Two groups of non-core workers are included in this study: those in temporary employment and those who provide services under subcontracting arrangements (also called "outsourced workers"). Although this type of nonstandard work arrangement was characteristic of firms operating in the "informal" sector of the economy (Portes & Hoffman, 2003), in the past decades precarious and informal work arrangements also grew within economic sectors based on high-skilled work and high productivity that had traditionally been at the core of the formal economy (Kalleberg, 2009). In Argentina, this transformation was the result of a round of labor flexibility reforms in the 1990s, which deeply affected legislation regarding individual workers, especially in hiring and dismissals (Cook, 2006).

Studies of Argentine labor markets in fact show the increasing weight of non-core workers within the formal sector workforce (Neffa, 2009). Therefore, a full understanding of contemporary labor revitalization in Argentina needs to include an analysis of the relations between core and non-core workers in formal sector enterprises during labor protests. Previous studies have shown that in the framework of labor revitalization, it is important to research the strategies that unions are developing in order to broaden their constituency (Cornfield & Fletcher, 2001) and to protect nonstandard workers (Carré & Joshi, 2000). The study of unions' responses to nonstandard work arrangements contributes evidence about the importance of organized workers as parts of broader movements of resistance to neoliberal globalization (Moody, 1997).

CONTEXT OF THE FACTORY CASE STUDY

Henry Ford Avenue intersects the Panamericana Highway 42 kilometers north of the City of Buenos Aires, and is one of the routes into the city of Pacheco, an area of vivid commercial and industrial activity. The first factory on the intersection is F-Motor, located across the street from a gas station. The industrial plant K-Foods Argentina is four blocks down the street from the gas station, right in front of the industrial plant of the V-Cars auto factory. On both sides of the street there are bus stops, often crowded with workers traveling to and from the factories. The companies mentioned above are among the biggest factories of Pacheco, together employing around 10,000 workers.

Two kilometers away from the Panamericana Highway, Henry Ford Avenue becomes the Avenida de los Constituyentes, and the industrial landscape gives way to that of a working-class neighborhood with a small commercial center. After 3.5 km, some small to medium size industrial plants appear, including the FR Meat Packing Plant, a paper producing plant, and a small mattress manufacturer. The FR Meat Packing Plant is surrounded by two neighborhoods: Las Tunas and Enrique Delfino.

I conducted fieldwork research between March 2010 and April 2011 in the portion of Pacheco that starts at the intersection between Henry Ford and Panamericana and ends with the FR Meat Packing Plant. The larger project includes interviews with workers and union activists from three formal sector companies in the area (K-Foods Argentina, V-Cars, and FR Meat Packing Plant), as well as with community residents and activists. Regarding K-Foods, I conducted interviews with workers and union activists, I did participant observations during union meetings and labor actions, conducted interviews with managers and supervisors, and I made a guided visit to the company's plant in Pacheco.

K-FOODS: PRODUCTION, NONSTANDARD EMPLOYMENT, AND UNION POLITICS

K-Foods entered the Argentinean food market in 1990, nine years after N-Food, which was also a multinational food manufacturer. During the 1990s, both companies acquired various Argentinean food-processing companies; then, in 2000, K-Foods acquired N-Food, giving birth to K-Foods Argentina. The industrial plant in Pacheco was owned by a national cookie manufacturer, which was acquired by N-Food in 1994. After the process of mergers and acquisitions of the 1990s, K-Foods concentrated production in the Pacheco plant, which produces chocolates, cookies, crackers, soft drinks, and pasta, most of which are directed to the domestic market.

The Organization of Production and Industrial Relations

K-Foods organizes the production of each food item into a different "product line," which is divided into two main sections: manufacturing and packaging. Product lines start with the mixing of different raw materials on the upper level of the factory and end with the packaging and transportation of the finished products on the lower level. During the process, workers in different sections of the product line are in charge of specific duties, which include raw material transportation, raw materials mixture, raw product preparation, cooking, packaging, and transportation of products.

Around 50 people work in each product line for every shift (morning, afternoon, and night), and there are four to five "leaders" who supervise each duty across product lines. For example, there is one leader who supervises 15 workers in the raw materials mixture for all product lines. In turn, the leaders are supervised by production coordinators. In general, men are assigned to production duties and women are assigned to packaging duties, because, according to a female coordinator, "women are more apt to do manual duties. Men are usually more uncaring" (production coordinator).

Industrial relations in the plant are characterized by conflicts between workers and management. From the workers' perspective, these conflicts are the result of management's mistreatment and power abuse. Most of my interviewees remember at least one occasion on which they felt that line leaders or coordinators were mistreating them. A middle-aged worker told me that "we are never silent about our problems, and that is how tensions and problems with leaders emerge. This is a huge company, but for some reason there are always problems. They always want more from you, but they give you nothing" (core worker). Every worker I interviewed had at least one story about discussions that emerged when leaders refused to give them paid sick leave, or yelled at them when they made a mistake in the line.

From management's perspective, conflicts emerge because the shop-floor union is ideologically set against the company. They think that the company needs to establish a one-to-one relationship with workers that would counter-balance the union's influence on workers' behavior. One of the managers said that "we try to be closer to the workers, so they can see that the shop-floor union does not represent their interest. We have to solve the workers' problems faster than the union" (manager). These and other excerpts from my interviews with managers unveil a more or less explicit competition between the company and the union to secure workers' loyalty. This competition is usually translated into daily conflicts about production pace, workers' illnesses, appropriate clothing, and machinery maintenance, among other things.

Nonstandard Work Arrangement

When K-Foods acquired the Pacheco plant, it continued with nonstandard work arrangements based on temporary and outsourced work. On the shop floor at K-Foods, these two types of nonstandard work arrangements involve important differences for workers in relation to their work situation and their labor contract.

There are two categories of temporary workers: those directly hired by K-Foods under temporary contracts; and those hired by temporary help agencies. The majority of temporary workers are young (18–29) and their wages are established by the collective contract of the Food Industry Workers' Federation (Federación de Trabajadores de la Industria de la Alimentación, FTIA), which means that they are also represented by this union. Because of the lack of seniority and of certain benefits, their salaries are substantially lower than those of core workers. The main disadvantage experienced by this group of workers is the lack of stability of their labor contracts, which was reflected in the high turnover of temporary workers between 2002 and 2007.

Outsourced workers are hired by contract companies in charge of specific operations within the plant. There are contract companies that are in charge of janitorial work, run the plant's restaurant, run the in-factory store, provide sur-veillance services, and do the maintenance of cooling machinery. Until 2007, there was also a company in charge of the transportation of finished products within the plant, employing 55 male workers who are now core workers employed by K-Foods (a change I describe in more detail later). The majority of outsourced workers are not represented by the Foods Industry Workers' Federation, and except for the workers in charge of the cooling machinery, their salaries are substantially lower than those of core workers.

Union Politics

The Food Industry Workers' Federation is the national-level federation of workers in the food-processing industries. The federation and its powerful Buenos Aires branch (Sindicato de Trabajadores de la Industria de la Alimentación, STIA)

are led by Rodolfo Daer, who is the head of the Peronist group that has been running both organizations for the last three decades. This group was the only contender in the last union election at STIA-Buenos Aires, which allowed Daer to be elected head of the union for four years starting in 2008.

Union activism at K-Foods is divided into three main groups. Each group has a different political orientation and a different stance toward the company's non-standard employment policies. The first group is centered on 30 representatives of STIA-Buenos Aires, who are core K-Foods workers aligned with the national union leadership. They have paid positions and are in charge of the relationship between K-Foods workers and the union, but they do not intervene in negotiations with the company. Both the union and this group of representatives have accepted the nonstandard employment policies developed by K-Foods and other food companies over the past decades.

Between 2005 and 2008, the shop-floor union was led by the second group, a group of activists that has historically been opposed to the Peronist leadership of the national and regional unions. This group, called "Agrupación 1º de Mayo," won the shop-floor union elections in 1993 and since then has led union politics at K-Foods. Most union activists in this group (as well as the majority of rank-and-file workers who supported them over the years) are longtime core workers. The group is of leftist political orientation and has denounced the company's nonstandard employment policies over the years. Activists showed me union flyers denouncing temporary contracts and labor outsourcing over the years, but there has been no major action or strike over these issues.

The third group of workers that influences shop-floor union politics at K-Foods has emerged in the past few years as the result of a grassroots campaign against the company´s nonstandard employment policies. Since 2005, this group has developed a strategy of grassroots politics based on regular meetings of rank-and-file workers in order to discuss their work situation and possible labor actions. Most of the workers in this group have been non-core workers with little or no previous experience of union activism. The main objectives of their activism have been the creation of solidarity links between core and non-core workers and the elimination of nonstandard employment policies. The organizing strategies of this third group have been at the center of the two labor conflicts that I analyze here.

CORE AND NON-CORE WORKERS DURING
TWO LABOR CONFLICTS

An analysis of the relationship between core and non-core workers during two recent labor conflicts at K-Foods will help us understand the emergence of labor militancy and union-based conflict in the factory. The first conflict occurred in 2005 and 2006, when workers from the outsourced company in charge of the transportation of finished products won permanent contracts as core workers. The second conflict occurred in 2007 and 2008, and was the result of

the grassroots organization of temporary workers demanding permanent contracts. These conflicts provide a good opportunity to analyze the relationship between core workers and two groups of workers that are subject to nonstandard labor relations: temporary workers and outsourced workers.

The Campaign against Labor Outsourcing

K-Foods continued the labor outsourcing policy initiated in the Pacheco plant during the early 1990s. In addition to maintaining those services that were already outsourced, the company outsourced other internal operations, such as the transportation of finished products within the plant. The company transferred 20 workers who were in charge of this task to other kinds of jobs, and hired Pronto (2003–2004) and then Incotran (2005–2006) to take charge of these operations.

By 2005, there were 55 Incotran workers doing transportation work for K-Foods in Pacheco: they were all men, mostly young and with some previous experience in factory work. Even though by 2005 these workers were protected by the collective contract of the Foods Industry Workers' Federation (meaning that their basic salary was established by the union contract and the union representatives could speak on their behalf and were supposed to defend their rights on the shop floor), there were still some disadvantages in their work situation when compared to that of core workers.

Their salaries were substantially lower than those of K-Foods workers, because they were not given extra pay for working overnight hours or weekends and were also excluded from the K-Foods category-based payroll system. Another difference was that Incotran workers did not get lunch tickets allowing them to eat at the factory restaurant. Last but not least, their contracts did not have the same stability as those of core workers because their continuity depended on the contracts established between K-Foods and the outsourcing company.

There are reasons to believe that a fight against outsourcing was more likely to succeed in the case of Incotran than in the case of other outsourced companies. This is because the decision to outsource the transportation of finished products was recent enough that most workers could still remember times when core workers were in charge of those duties. In addition, the tasks these workers performed involved close contact and strong collaboration with core workers, because they were in charge of transporting the finished products from the product lines to the warehouse.

In spite of these seemingly favorable conditions for a struggle against outsourcing, until 2005 there were no union attempts to fight the practice. The regional union (STIA-Buenos Aires) did not demand the incorporation of Incotran workers as core workers, but it exerted some pressure in two directions: Incotran workers should be members of the Food Industry Workers' Federation instead of the Teamsters Federation, and they should be allowed to have lunch at the factory restaurant. Both demands were addressed in 2005.

The demand that Incotran workers should be hired as core workers appeared as a result of a process of grassroots organization that began in 2005, based on weekly meetings of activists (one of them a dissident unionist from the existing shop-floor union) and outsourced workers. They started organizing social activities that strengthened the ties both within the group of Incotran workers and between them and core workers. Among the social activities, workers remember organizing barbecues, birthday celebrations, and soccer games. In early 2006, for example, the grassroots group organized a soccer tournament involving more than 30 teams of K-Foods workers and some teams from the nearby neighborhoods. They gave the money they had collected to an Incotran worker who had recently been laid off.

Apart from organizing social activities, the group was holding regular meetings to discuss its members' work situation. In one of these meetings, they decided to enter into a struggle to obtain better salaries and working conditions. The main problem, as they saw it, was that their salaries were much lower than those of core workers. By that time, a core worker with just a few years of seniority could earn double the salary of Incotran workers, thanks to the extra money he would get for working extra hours or weekends. Even if both received a basic salary of around AR$1,000, core workers would get 100% extra for every hour they worked on Saturdays after 5pm and 200% for Sunday hours, yielding a monthly salary of more than AR$2,000. In response to this disadvantage, the Incotran workers demanded extra pay for their weekend work.

Around February/March 2006, after some unproductive meetings with the head of STIA-Buenos Aires and with their employer, the Incotran workers decided that it was time to start actions to achieve their objective of equal pay. During the ensuing eight months of struggle, they implemented a strategy of "noncollaborative" work, meaning that they did not work the hours for which they believed they deserved extra pay. The solidarity of core workers was essential for the success of this measure, because they refused to transport finished products when Incotran workers were not in the factory. In fact, there were many instances in which line leaders had to come in on Saturdays or Sundays to replace them.

In the second half of 2006, workers organized five surprise two-hour strikes and one six-hour strike, which finally got them a meeting with K-Foods' managers. During this meeting, they got the pay raise, and were also promised that they would keep their jobs even if K-Foods hired a different subcontractor in the near future. While at the beginning of this process they were demanding job security and a pay raise, once they achieved these, they started asking to be hired directly by K-Foods. When the contract between K-Foods and Incotran expired, in December 2006, they finally won their battle and were given full contracts as core workers.

Temporary Workers Win Permanent Contracts

By the end of 2006, K-Foods was extensively hiring temporary workers in times of high production, and firing them during lulls. Between 20% and 30% of

the K-Foods workers were hired under temporary contracts (*contratados*) or by temporary employment agencies (*de agencia*). The main difference between these workers and the core workers was the lack of stability of the temporary workers' labor contracts. Their wages were also lower, mostly because of their lack of seniority and the absence of benefits.

This situation started to change by the beginning of 2007. After four consecutive years of production growth, temporary workers were staying at K-Foods for a longer time than before. Some workers spent more than a year or two on temporary contracts, which helped to create stronger links between them and core workers. In this context, a group of young temporary workers joined the regular meetings of the grassroots group of workers and activists that had won the 2006 struggle against labor outsourcing. The organizing activity of the group gained visibility during the first half of 2007 and achieved a positive outcome for the workers: by mid 2008, all temporary workers had been given full contracts by K-Foods. How did this happen?

The action around temporary contracts occurred mostly during the night shift, thanks to the efforts of the grassroots group. The first time temporary workers had the chance to act against the temporary contracts policy was in February 2007, when a group of eight workers who had been dismissed decided to stay in the plant until they met with the production human resources manager. Management arrived at the meeting saying that the layoffs were a mistake, and that workers would work for K-Foods until the end of their contracts, that is, until the following week. Even though the workers were finally dismissed, workers saw this action as a good precedent for subsequent events.

After this February action, which is recalled as "El Plantón" (The Seat), the grassroots group gained increasing influence among night shift workers. In one of their regular meetings, workers decided to organize a May 23, 2007, blockade of the Panamericana Highway in order to press for three main demands: (1) a salary raise for core workers; (2) "core worker" status for temporary workers; and (3) "core worker" status for outsourced workers. The majority of workers who participated in the blockade were temporary workers from the night shift, but core workers and activists from the shop-floor union were also involved.

This was the first blockade of the Panamericana Highway by K-Foods workers in seven years, and the first time in which such an action had been led by a group of young temporary workers.

On June 3, a week after the blockade, K-Foods suspended the contracts of 150 temporary workers, arguing that a lack of natural gas was slowing down production. Temporary workers from the night shift rejected this move and broke into the factory in spite of the resistance of security personnel. Once they had entered the factory, they asked for the solidarity of core workers. Their response was a factory-wide strike. After the intervention of the National Labor Office, the company rehired all of the workers.

The all-factory strike deeply affected the balance of power in the factory, transforming the issue of temporary contracts into a major point of contention. A month after the strike, when the contracts of this group of 150 workers were about to expire, the company attempted to deal with this through layoffs or new temporary contracts. For the first time in memory, the shop-floor union and the activist group came together to organize the opposition to this attempt, and gained full contracts for most of the affected workers. In the following months, as a response to increasing activism over the issue, the company gave full contracts to most temporary workers whose contracts were expiring. According to the shop-floor union's estimation, there were between 800 and 900 workers who received full contracts in this period, almost 90% of all the workers who were formerly employed under temporary contracts.

UNION STRATEGIES THAT CONFRONT
NONSTANDARD WORK ARRANGEMENTS

The study of union politics at K-Foods Argentina provides evidence of a new labor militancy of non-core workers. Non-core workers were disadvantaged in economic terms (their salaries were substantially lower than those of core workers) and their employment contracts lacked stability. Because of these objective conditions and the lack of interest of union leaders and activists in opening up the union as a space of activism, they had been excluded from labor organizing.

Once they started to get involved in union politics and shop-floor activism, they proved the strength of union activism that is based on the most oppressed groups of factory workers. First, in opposition to the established union practices, non-core workers' campaigns were based on regular meetings of rank-and-file workers as the place for collective deliberation and decision making. A nearby restaurant was the site of countless meetings that often gathered dozens of workers and sometimes (in moments of more intense activism) hundreds of non-core workers (and some core workers) who would collectively decide labor actions and goals.

The second characteristic of this grassroots activism has been its ruthless pursuit of the creation of solidarity ties between core and non-core workers. The group, whose main priority was the transformation of temporary and outsourced jobs into core jobs, was able to combine this demand with those of existing core workers. For example, during the blockade of the Panamericana Highway of May 2007, the group demanded a pay raise for core workers and the end of temporary and outsourced employment. Likewise, most of the group's social activities were oriented toward creating these solidarity ties, such as soccer tournaments or birthday celebrations that gathered together core and non-core workers.

This grassroots strategy of solidarity has proved to be an effective way of fighting the company's nonstandard labor policies in the past few years. The movement went beyond this achievement, and by November 2009 it won the shop-floor union elections. Most of the elected union officers are temporary or outsourced workers who became core workers thanks to the two labor actions described above.

The grassroots shop-floor activism of non-core workers was able to generate solidarity practices in a context that had been previously adverse for labor actions aimed at uniting core and non-core workers. The emergence of these practices of solidarity reversed the tendency toward labor fragmentation imposed by capitalist employment policies. In the past, this fragmentation was reinforced by the nationally driven agenda of the FTIA.

Finally, evidence from the two organizing campaigns at K-Foods Argentina between 2005 and 2008 contributes to the argument that workers are not passive victims of labor-degrading policies but do have agency and are still fundamental in explaining strategies of resistance to the increasing inequality brought about by neoliberal globalization (Collins, 2003; Milkman & Voss, 2004). It suggests that the possibility of a new labor upsurge confronting capital's offensive in the global south depends (once again) on the alliances that labor movements establish to broaden their constituency (Seidman, 1994). Regarding nonstandard work arrangements in formal sector firms, it highlights the importance of a grassroots organization of workers that has been democratically organized and has combined core and non-core workers in the struggle aimed at ending employment policies that have been deepening labor fragmentation.

REFERENCES

Carré, F., & & Joshi, P. 2000. Looking for leverage in a fluid world: Innovative responses to temporary and contracted work. In F. Carré, M. Ferber, L. Golden, & S. Herzenberg (Eds.), *Nonstandard work: The nature and challenges of changing employment arrangements:* 313–340. Champaign, IL: Industrial Relations Research Association.

Chinguno, C. 2011. Trade unions and workers in the periphery: Forging new forms of solidarity? *Journal of Workplace Rights,* 15(3): 367-386.

Cobble, D. S., & Vosko, L. F. 2000. Historical perspectives on representing nonstandard workers. In F. Carré, M. Ferber, L. Golden, & S. Herzenberg (Eds.), *Nonstandard work: The nature and challenges of changing employment arrangements:* 291–312. Champaign, IL: Industrial Relations Research Association.

Collier, R., & Handlin S. P. 2005. Shifting interest regime of the working classes in Latin America. Retrieved from http://www.irle.berkeley.edu/workingpapers/122-05.pdf, June 2011.

Collins, J. 2003. *Threads. gender, labor, and power in the global apparel industry.* Chicago: University of Chicago Press.

Cook, M. L. 2006. *The politics of labor reform in Latin America: Between flexibility and rights.* University Park: Pennsylvania State University Press.

Cornfield, D., & Fletcher, B. 2001. The U.S. labor movement: Toward a sociology of labor revitalization. In I. Berg & A. L. Kalleberg (Eds.), *Sourcebook of labor markets: Evolving structures and processes:* 61–82. New York: Kluwer Academic/ Plenum Publishers.

Kalleberg, A. 2009. Precarious work, insecure workers. *American Sociological Review,* 74: 1–22.

Milkman, R., & Voss, K. (Eds.). 2004. *Rebuilding labor: Organizing and organizers in the new union movement.* Ithaca, NY: Cornell University Press.

Moody, K. 1997. *Workers in a lean world: Unions in the international economy.* London: Verso.

Neffa, J. 2009. Sector informal, precariedad, trabajo no registrado. Retrieved from http:// www.aset.org.ar/congresos/9/Ponencias/p8_Neffa.pdf, June, 2010.

Palomino, H. 2007. Un nuevo indicador del Ministerio de Trabajo, Empleo y Seguridad Socia: Los Conflictos Laborales en la Argentina 2006–2007. *Trabajo, Ocupacion y Empleo,* 7: 17–36.

Portes, A., & Hoffman, K. 2003. Latin American class structures: Their composition and change during the neoliberal era. *Latin American Research Review,* 38: 41–82.

Roberts, K. 2002. Social inequality without class cleavages in Latin America's neoliberal era. *Studies in Comparative International Development,* 36: 3–33.

Seidman, G. 1994. *Manufacturing militance: Workers' movements in Brazil and South Africa, 1970–1985.* Berkeley: University of California Press.

Webster, E., & Von Holdt, K. (Eds.). 2005. *Beyond the apartheid workplace.* Pietermaritz- burg: University of KwaZulu-Natal.

Direct reprint requests to:

Rodolfo Elbert
Sociology Department
University of Wisconsin at Madison
8128 William H. Sewell Social Sciences Building
1180 Observatory Drive
Madison, WI 53706
e-mail: relbert@ssc.wisc.edu

ORGANIZING THE "UNORGANIZED": VARIETIES OF TRANSNATIONAL TRADE UNION COLLABORATION AND SOCIAL DIALOGUE IN TWO INDIAN CITIES

JAMIE K. McCALLUM
Middlebury College, Middlebury, Vermont

ABSTRACT

This article argues that local contexts are critical determinants of successful global unionism. It presents findings from ethnographic research on transnational union cooperation in two major Indian cities: Bangalore and Kolkata. The main findings suggest an apparent contradiction between the perceived nature of global unionism as a standardizing practice and the degree to which local actors and conditions influence the outcomes of transnational campaigns. The article explains the variation in the ways that actors in each city relate to the larger campaign based on historical, cultural, and social circumstances.

The recent surge of interest in transnational labor activism confronts scholars with two immediate paradoxes. One is that almost all of this activity has taken place where we would least expect it, outside the purview of the International Trade Union Confederation, the main body charged with orchestrating the global union movement. Scholars have done a substantial job in covering this ground through studies of codes of conduct, international framework agreements, loopholes in global trade pacts, and direct union transnationalism. The second paradox—that effective global unionism relies, in the final analysis, mostly on local conditions—is far less evident in the literature.

In order to understand the interaction between global campaigns and different local union contexts, this article undertakes a comparative study of a dynamic

399

transnational campaign in the private security industry within two prominent Indian cities: Bangalore and Kolkata. Both places have been the subject of numerous studies of urbanization, metropolitan restructuring, techno-industrial development, and global cities, but far less has been written on how these changes have impacted the lives of the masses of service sector workers who make such transformations possible.

Although the global campaign originally attempted to standardize practices and results across a variety of countries, I show that local constraints and opportunities presented unique challenges that fundamentally transformed the strategies and tactics, leading to different outcomes, even within India. While some research has assessed the local *impacts* of transnational labor activism (Niforou, in press), the argument here comes from the opposite direction, suggesting that local contexts have a direct influence on the feasibility of global campaigns. Moreover, while important studies have argued that transnational labor advocacy has the tendency to undermine the autonomy and power of local movements (Seidman, 2008), the case examined here describes a campaign that, while inspired by global priorities, is largely driven by local struggles and actors. It suggests a cautious optimism about the prospects for authentic labor internationalism where others have asserted an overriding pessimism (Burawoy, 2010).

The campaign began when the U.S.-based Service Employees International Union (SEIU) and UNI Global Union (UNI) sought to gain traction within the world's largest security firm, British-owned G4S. After looking for allies around the world, it found willing partners in India, the company's largest and fastest-growing market. The campaign, which is still ongoing, generally occurred in two phases. In the first phase, Indian unions assisted in the overall global struggle to win an international framework agreement with the company, an instrument that tries to establish new rights for private security guards around the world, including basic labor standards, minimum wages, nondiscrimination, and overtime pay. The international framework instrument was agreed to; the agreement also granted G4S workers neutrality, or the right to organize a union without management interference.

In the second phase, unions in Bangalore and Kolkata used this formal agreement as grounds to build unions within the company, though each took a different approach, as I demonstrate below. I find that the unions' divergent approaches in the two cities are based on (1) global-local union relationships, (2) traditions of state patronage, and (3) the legacies of labor internationalism and union imperialism. I also inquire into the possibility of union revitalization, but I conclude that the unions are indicative of the larger picture within India. That is, despite recent efforts to change union conduct, and slight possibilities emerging from structural changes, there is still much to do before unions can reverse their membership decline and substantially transform their organizations.

I have argued elsewhere that global agreements can have "mobilization-type" impacts, by helping local unions forge new organizing campaigns (McCallum,

2011). That is, however, not the case here, where the global campaign instead provided the basis on which an important social dialogue process was able to develop, leading to potentially large-scale political reforms of the private security industry nationally. Therefore, we can say that the global agreement had "legislative-type" impacts in India.

This article draws on approximately 50 in-depth interviews with unionists, employers, and security guards, as well as on union documents and observation of meetings between August 2009 and July 2010. It is divided into three parts. First, I briefly outline the contours of Indian labor relations and trade union development, including the relationship of both to the fast-growing private security industry. Second, I provide an ethnographic narrative of my comparative case study. Finally, I discuss the significance of transnational collaboration for each union in the two cities and its implications for understanding the prospects for global unionism to impact local struggles.

DYNAMICS OF INDIAN UNIONISM

Some have suggested that union transnationalism is an unlikely phenomenon in India, based on the premise that the exceptional nature of Indian industrial relations makes it fundamentally incompatible with other varieties of unionism, thereby militating against successful cross-national cooperation (Kuruvilla et al., 2002). Indeed, the practice of international unionism is largely absent from Indian labor historiography, except for the colonial-era union imperialism emanating from the UK (Busch, 1983). Moreover, today India is not integrated into the systems of regional trade union organization and has remained steadfast in its commitment against global trade-labor linkages. Aside from some recent ad hoc attempts, Indian unions have only a slim record of transnational collaboration. The current instance of transnational collaboration, however, demonstrates that Indian and North American unions have been able to overcome the unique aspects of their own national systems.

Labor in Postcolonial India

Circumstances for Indian workers today are not circumscribed by colonialism, but they owe much to the legacy of industrial relations that was born prior to independence. When labor was relatively strong and committed to mobilization-based strategies, employment protection and income stability were guaranteed to labor in public works projects through the Industrial Disputes Act and the Factories Act, both of which survive today. Moreover, for six decades, excepting the two-year interlude (1975–1977) of Indira Gandhi's Emergency, workers enjoyed a panoply of formal democratic rights. The political system therefore ensured worker protections despite low union densities and an erratic commitment to organizing, inscribing on trade unions a deep dependency on particular political

parties and loyalty to these parties, a persistent phenomenon today. Nevertheless, paradoxically, despite high levels of institutional support, the Indian labor movement remains enfeebled.

In the decades of the 1970s and 1980s, the state began retreating from the promises of "Nehruvian socialism" amid widespread restructuring of the global political economy (Frankel, 2005). The addition of the Contract Labour Act to India's myriad legislative statutes introduced employment flexibility to the Indian industrial relations landscape (Hill, 2009). These developments undermined union densities and set the stage for further liberalization policies in the early 1990s (Das, 2000).

From Dirigisme to Neoliberalism

Many regard the July 1991 announcement of the New Economic Policy as a decisive moment in Indian history, a defining feature of the transition from state planning to neoliberalism.

Kuruvilla and Erickson (2002) argue that the central tendency of Indian industrial relations has been transformed since the early 1990s from an authoritarian logic of maintaining labor peace to a logic promoting labor flexibility. It is popular to stress the legacy of dirigisme as anathema today, as much has changed since liberalization, with enormous implications for unions and workers (Venkataratnam, 1998). The new policies ended the system of licensing procedures in manufacturing (the "license permit raj"), liberalized the capital markets and terms of entry for foreign investment, and increased the development of export-processing zones (Balasubramanyam & Mahambare, 2001; Hensman, 2010), which had the cumulative effect of generating new interstate rivalries for investment, precipitating a race to the bottom of labor standards inside the country and increasing work-seeking migration (Bhattacherjee, 2001). The last 15 years of reforms demonstrate a disjuncture between the perceived nature of Indian labor law as rigid, and its actual flexibility (Sharma, 2006). Moreover, beneath India's economic boom, the delinking of growth and employment, combined with declining unionization, has resulted in fewer prospects for upward mobility for the majority of India's people.

Collectively, these changes have increased the challenges facing Indian trade unions. Though the challenges are common to many developing countries (Kuruvilla et al., 2002), they are compounded in India by an institutional framework alleviating labor-capital relations that has served to amplify labor's structural deficits rather than abridge them (Chibber, 2005). A primary obstacle to the trade unions is the growing tendency of Indian employers to informalize the labor force. Against the predictions of development theory, growth has not been labor-absorbing. Rather, liberalization has actually promoted employment flexibility, so much so that today the vast majority of Indian workers are located in the "unorganized" or informal sector. It should be noted that the terms "organized"

and "unorganized" are the official titles given to what most scholars typically call the "formal" and "informal" sectors of the economy, respectively. Private security guards, such as those employed by G4S, fall within this sector because their conditions of work and quality of life are so inherently precarious.

However, because so many enterprises straddle the divide between the two categories, the work lives of formal sector laborers are anything but stable. The data show definitively that formal sector workers have lost jobs not to mechanization but to contract laborers (Sengupta & Sett, 2000). For these reasons, animosity between "organized" and "unorganized" laborers has grown at the same time that the distinction between each sector has become blurred.

While the immediate effects of liberalization have been largely negative for unions, unanimous political support for liberalization encouraged a slight but noticeable rupture between unions and their political parties, which many in the labor movement regard as a positive development. Despite reports of declining membership, Uba (2008) finds an increase in union action during the liberalization period. These protests, largely described as blowback against the wide-ranging support by the state, parties, and employers for neoliberal policy, took the form of strikes, mass marches, walkouts, traffic blockades, and hunger strikes. Though these actions did not succeed in blocking liberalization schemes, they did slow the process considerably (Candland, 1999), and they increased public sentiment against it: public opinion against privatization increased from 34% in 1996 to 48% by 2004 (Yadav, 2004). In the middle of the market-based reforms, Indian unions also won groundbreaking legislation to benefit poor families through a massive public works program known as the National Rural Employment Guarantee Act (Bhowmik, 2009).

Therefore, though they are a central part of the equation, neoliberal developments do not explain the totality of labor's weakness in India. The weakness of labor in India was in no way preordained by structural constraints, but rather owes much to the strategic choices of labor unions themselves. Today it is also important to contrast the discourse of labor flexibility and informality with the extreme structuring of work relations along a matrix of nonclass identities: caste, gender, religion, language, and age. These sociocultural identities are still strong determinants of what people do and the conditions under which they do it, and they give rise to the political formations that inhibit class formation. As Barbara Harriss-White and Nandini Gooptu (2001: 236) argue:

> If class is first a struggle over class and second a struggle between classes, we can say the overwhelming majority of the Indian workforce is still kept engaged in the first struggle, while capital, even though stratified and fractured, is engaged in the second.

These dynamics bring us even closer to an understanding of the massive fissures among workers in India, and the impact these have on unified working-class mobilization. Today, while numbers vary, approximately 2% of

the 47 million Indian workers belong to a trade union—the vast majority of which are concentrated in the public sector—spread over five major union federations, each controlled by a political party. Therefore the Indian labor market consists primarily of the expanding unorganized sector—now up to about 94% of the workforce— and a tiny formal sector that exists as a protected oasis, a happenstance that has given rise to the prevailing conception of Indian union members as card-holders in an elite club who are unwilling to share their privilege with others.

As firm-level unions proliferated independently of affiliation to national feder-ations in the 1980s, unions multiplied quickly (RoyChowdhury, 2003). There are about 66,000 registered trade unions today, though some estimate the actual number might be as high as 100,000, organized along myriad axes. In this scenario, fierce interunion competition has militated against solidarity. Rudolph and Rudolph (1987) have referred to the Indian situation as "involuted pluralism," a term used to describe the ironic multiplication and simultaneous weakening of interest groups.

Even within this context of weakness and extreme labor pluralism, however, there are exceptional developments as well. First, we see a slow movement toward independent unionism outside the sphere of party control, especially embodied by the creation of the National Centre for Labor and the New Trade Union Initiative, an umbrella organization of this new movement (Bhattacherjee & Azcarate, 2006; Davala, 1996; RoyChowdhury, 2003). The Self Employed Women's Association, a union-type formation arising from Gujarati garment unions, has since the early 1970s been a voice in the wilderness within India, though it has recently been joined by other informal sector movements (Gallin, 2001). Agarwala (2006, 2008) explains that the strategies of *bidi* (a thin cigarette) makers and construction workers have changed as their industries have become increasingly informalized. Where once these groups targeted employers and aimed for worker rights, they now make demands on the state and demand welfare benefits instead. However, whereas in Agarwala's studies this is due to the plethora of tiny employers that characterize the informal sector and are unable to really bargain with their employees, in the case of the security guards studied here it results from the company's power to resist bargaining, which encourages the union to demand that the state intervene. These trends have led some in the labor movement to assert that Indian trade unions are in the midst of a wide-scale revitalization process. While these examples highlight an important degree of restructuring, it is premature to announce the arrival of a new phase of unionism.

This brief discussion helps us situate the case study within the context of a historically weak and fragmented trade union movement and amid some experi-mentation for renewal led by informal sector worker organizations. The other important context to consider when evaluating the local pressures on unionism, in this case, is the remarkable rise of the security industry.

THE INDUSTRIAL CONTEXT OF PRIVATE SECURITY

The expansion of the private security industry in India has paralleled the transition to free market capitalism detailed above, but it has also exceeded typical service sector growth. Today, private guards outnumber public police about 3:1. The service sector grew quickly in the 1980s, and further accelerated in the 1990s, averaging 7.5% growth per year, supporting industry and agriculture, which grew on average by 5.8% and 3.1% respectively (Gordon & Gupta, 2004). The most famous dimension of the growth in services has been in software and information technology?enabled services, although the growth in services in India has been much more broad based than just in IT.

Private security and facilities services are located at the intersection of many growth industries in India. G4S, the company under scrutiny in this case study, offers clients a variety of standard services for a security company: guarding, cash transit, technology-based security (cameras, radio, etc.), executive protection, armed guarding, and automobile fleet tracking. However, it expanded its services in 2010. It now produces garments for both Indian and British uniformed personnel, and has specially designed security solutions for the IT and IT-enabled sector. It has also started a division called FirstSelect, which links corporate clients with potential employees. Its "facilities manage-ment" department advertises itself as a "one-stop-shop" for a variety of solu-tions that essentially give G4S a monopoly at worksites that require multiple service inputs.

G4S employs 150,000 people, making it by far the market leader and also the largest transnational employer in the country, with over twice as many employees as the next largest competitor, TopsGroup. Over the two decades for which G4S and its parent companies have operated in India, it has "created a new job" every 80 minutes, or 32 per day (G4S, 2009). Since it has grown fast by mergers and acquisitions, most of these jobs are not actually "new." However, they are impressive figures, nonetheless. In March 2009, the New Delhi magazine *Business Standard* reported that G4S planned to increase its Indian labor force by 20% in the next year, bucking the trend of hiring freezes and layoffs during the global recession.

Because of this expansive growth, G4S credits itself with nothing less than inventing the Indian security industry. According to a local manager, 15 years ago a security guard in India was a "guy in a dirty lungi holding a big stick." G4S, as the largest Indian security company, has helped to foster the growth of an industry that in earlier years was simply an afterthought, nurtured by the rapid growth of the IT sector in a few large cities—Bangalore, Hyderabad, Mumbai, Kolkata, and Mysore. Since the 2009 terrorist attacks in Mumbai, and with the continued tension in Kashmir, the rationale for private security has also been strengthened, as the military has been stretched increasingly thin. Filling these more serious security voids has been made possible in light of G4S's

2006 acquisition of Armor group, a private military contractor with operations in Iraq, Afghanistan, and India-controlled Kashmir.

G4S claims to be the most densely unionized security company in the world, with over 200 union agreements in force. To this it has added the global agreement with UNI, technically called an ethical employment partnership. In the Asia-Pacific region, about 20% of its operations are unionized, roughly equivalent to the level in North America.

Nevertheless, G4S security guards in India still live in brutal poverty, and guards regularly report illegally low wages, contributions to pensions being withheld, and unfair treatment at work, all of which were included in a complaint filed by UNI through the UK contact point for the Organisation for Economic Cooperation and Development (OECD). The job of security guard is characterized by part-time employment in the informal sector.

This introductory section outlines the context for the article's case study: the transnational campaign conducted between UNI and local Indian unions. In the first phase, Indian workers joined the larger movement of unions around the world to secure the global agreement. In the second phase, unions in Bangalore and Kolkata have implemented the agreement in different ways, and in so doing they have tried to restructure their organizations.

CASE STUDY

Phase I

During a 2008 UNI conference held at SEIU headquarters in New York City, a UNI staff person, speaking about the global campaign against G4S, said, "We thought, 'If we can do this in New York, New Jersey, New Mexico, even New South Wales, we can do it in New Delhi.' But we were wrong. It turned out that we couldn't do it in any of those places without doing it in New Delhi first."

UNI originally thought the global agreement would have universal applicability. In many ways they thought and hoped it would function close to the way it did in Johannesburg. But local constraints presented obstacles that forced a different kind of campaign in India. Because India is G4S's largest market, and collaborative work among the unions was facilitated by a common ability to use the English language, the campaign in India became a critical component of a multipronged pressure strategy during the global campaign.

SEIU leaders visited India in 2005 in search of partner unions in the private security industry. The labor movement's historical disunity—on the basis of political party affiliation, caste, geography, and religion—meant it was necessary to first create a new organization of the warring factions. By 2007, after completing a tour of the country's seven largest labor federations, The Service Employees International Union, UNI's largest affiliate, settled on the Indian National Trade Union Congress (INTUC), which was affiliated with the Congress

Party and the Communist-controlled Centre of Indian Trade Unions (CITU). Historically, the INTUC unions were successful in building density in the large public sector enterprises in Karnataka, whereas CITU's strength had always been concentrated in West Bengal.

The resulting organization, the Indian Security Workers Organizing Initiative (ISWOI), is perhaps the first organization of its kind in India, as it bridges deep political divides. ISWOI is composed of a 10-person governing council, consisting of UNI staff and representatives of CITU and INTUC and their affiliates in the security industry. Its quarterly meetings often include management representatives as well. This deliberative body is chaired by an SEIU staffer in the United States and coordinated by an India-based UNI staffer, and it makes all the decisions concerning the strategy of the campaign.

By late 2007, UNI had also established three offices in India to coordinate a variety of campaigns throughout the country; these offices were called Union Development and Organizing Centers (UNIDOC). The private security campaign was notable for focusing exclusively on workers within the vast informal sector. To shine a spotlight on these invisible workers, UNI exploited the dubious claim of the country to be a large democracy with a growing economy in its report, "Inequality beneath India's Economic Boom" (UNI, 2009). The document demonstrates that G4S guards receive poverty wages, often below the legal minimum, work long hours without overtime pay, have no job security, and are denied the right to organize independent unions. UNI also hired legal experts who produced similarly damning profiles and case studies of the company that framed the debate in terms of political and human rights.

ISWOI began to play a larger role in the global effort, by applying pressure locally to G4S. First, local unions engaged the G4S management in a number of legislative battles, kick-starting a process aimed at a reinterpretation of the confusing array of labor laws. In June 2007, ISWOI unions also participated in global demonstrations involving dozens of security guard unions around the globe. When G4S refused to act favorably, security guard unions pressured the organizing committee of the 2010 Commonwealth Games, the $1.6 billion multisport event held in India, to deny the lucrative security contract to G4S, based on its poor human rights track record, causing an uproar within the country's business community. These actions publicly shamed the company and threatened its profit margins in its largest market, presenting a questionable profile of the company to European investors.

In December 2008, after five years of fighting the union on multiple fronts in multiple countries, the company unexpectedly capitulated. The decision of the company's British management to submit to the demands of the global agreement was supposed to ripple through its subsidiary branches around the world and impact all 150,000 G4S employees in India. However, when asked why his company had settled with the union, an Indian G4S manager shrugged his shoulders. "It's not my job to ask those questions," he says. "The decision

was not ours." The failure of the parent company to adequately inform its affiliates, especially those in its largest market, was the prelude to a confusing process of implementation.

Phase II

After the successful negotiation of the global agreement, among the first organizational decisions was to determine the scope of practice for each union in ISWOI, as it became clear that the historical divides were actually too large to bridge. It was then decided that INTUC would have sole organizing rights over G4S workers in Bangalore and Kochi, whereas CITU would operate in Kolkata and New Delhi. The strict division of labor has been an essential aspect of the campaign strategy. During the past two years, however, jurisdictional battles nonetheless have broken out between the two organizations in Mysore, Mumbai, Hyderabad, Pondicherry, and New Delhi.

Both INTUC and CITU began their collaboration with UNI in 2007, when ISWOI was formally adopted as the campaign's strategic framework, but its work increased after the global agreement was signed, as it offered an initial promise of worksite access and employer neutrality. UNI organizers, transplanted full-time to India, mentored local unionists in Delhi, Bangalore, Kolkata, and Kochi on the ins and outs of North American organizing unionism—strategic mapping, one-on-one conversations with workers, data collection, and an explicit focus on the market-dominant company. However, despite a common cause and a shared organization, the unions have taken markedly different approaches to implementing and defending the global agreement. We can examine the differences as they play out in Bangalore and Kolkata.

Bangalore

In Bangalore, UNI worked with the Private Security Guards Union (PSGU), an INTUC affiliate aligned with the Congress Party. In the late 1980s, twin brothers Muthappa and Muddappa formed the first garment workers' union in the state. By 2005, security guards at union garment factories began clamoring for unionization as well, which became the inspiration for the PSGU. Muthappa has played a critical role in the construction of ISWOI and is probably the most committed Indian unionist within its ranks. Although politically he is a socialist, he prefers the union politics of the Congress Party to that of the Communist unions.

In 2007, as per UNI's suggestion, the PSGU committed itself to building density primarily within G4S. At 4,300 members, the union has roughly tripled in size since it began working with UNI. UNI paid for another PSGU staffer to work in Bangalore to help motivate G4S workers to join the union. All in all, despite significant membership gains, organizing has been difficult. The company has intensified its retaliation against organizers and member activists. On-site

violence, related to union politics, has become more common as well, as the organizing environment has created divides among guards.

However, though still nascent, and frustrated by management's stance, the union activity has produced important results for security guards statewide. Union pressure has obliged G4S to offer appointment letters to new hires, detailing the terms of the employment relationship, disregarding the practice of using labor brokers and other third-party entities to hire guards. The company has also begun to pay statutory benefits such as minimum wages, more regular contributions to workers' pensions, overtime pay, and bonuses to workers based on seniority, finally bringing the company into compliance with the Contract Labour Act. Because these gains apply to workers company-wide, not only to G4S union members, these increases will effectively double the value of the salaries of 150,000 informal sector workers, who currently earn approximately 200 rupees per day, or about four U.S. dollars. Finally, thousands of identity cards have been issued to union members; this affords them an opportunity to open a bank account or receive a loan, a gain that has been shown to be vital to other campaigns of informal workers (Agarwala, 2006).

Historically, the union had built membership through mass recruitment meetings, often targeting politically radical workers, at which union leaders extolled the virtues of union membership and then passed out some union cards to sign. The meetings were advertised by militant workers or staff who handed out leaflets as workers left the jobsite. The union began to shift its recruitment process under the influence of UNI to focus on one-on-one meetings with guards at worksites and homes. The absorption of a North American style "organizing model" is deep and obvious. Leaders in Bangalore credit UNI and its organizers with disseminating a new way of building the union, one that they are eager to extend to their own work. During several meetings with worker activists, for example, there were lively debates on the value of mapping and how best to carry it out. Mapping refers to the process by which unions lay out the industrial landscape of a particular place through outreach and field research in order to determine what the strengths and weaknesses of a particular company or industry may be. Factors to be taken into account include the relative density of employees to managers, financial assets, the proximity of other, similar union businesses, and so forth. Admittedly, the organizing orientation has deprived local organizers of some of their overt political motivation, and replaced it with a heavy reliance on numbers, as in the U.S.-style model.

"Now, [organizing is] a science," says one PSGU organizer. "We have a plan of action. We have a strategy. We have number goals and we must reach them. That is something new. It is a good thing."

The PSGU has also incorporated the global agreement into its organizing message, and has translated it into regional languages such as Kannada, Tamil, Malayalam, and Telugu. In October 2009, at a meeting in a slum on the outskirts of Bangalore, PSGU organizers spoke with security guards about the global

campaign and the systematic way in which they were carrying out an organizing plan. The meeting took place in a building that houses about 100 workers. It is a common landing pad for new migrants from Assam, Orissa, Bihar, and Andhrah Pradesh, poorer states from which many security guards in Karnataka immigrate. At first, workers were hesitant, and conversation in Hindi and Kannada was stilted. But after an older worker who was already a union member spoke up in Tamil, 12 others signed cards.

The company has yet to recognize the union, has been delaying discussions over economic issues for years and has carried out a public assault on union leaders. Reports by guards of physical and emotional abuse are common, with one union activist claiming he was pushed to attempt suicide as a result of company harassment. G4S has in fact initiated contact with rival unions, as an anti-ISWOI strategy. In this environment, the global agreement has been completely ineffective in bringing the company to a union-neutral stance, which has led some in the union, including ISWOI council members, to conclude that the global agreement is a "waste of paper that we cannot afford."

Because the global agreement technically restricts the union from industrial action and certain forms of public protest—unauthorized strikes, wildcat strikes, picketing—the PSGU has generally relied on ISWOI council meetings to voice its concerns to high-ranking G4S management. In June 2010, however, its union leaders swore not to attend another ISWOI meeting for the purpose of discussing the global agreement with G4S, citing the company's massive intransigence, sentiments shared by local INTUC and Congress Party leaders as well.

Speaking to the frustration of local unionists, a UNI staffer in Geneva says: "We have an issue of expectations. . . . They [the Indian unionists] thought that this thing [the global agreement] would solve all our problems. That the company would react. Well, it has, actually. It has, but not the way they'd like. We need to show them that this can work. Patience is not easy to come by here, though."

Kolkata

In Kolkata, where patience is in even more limited supply, CITU has taken a decidedly different approach to implementing the global agreement. Membership in CITU's security guard union hovers around 15,000, more than the membership of the other ISWOI unions combined. It has been organizing security workers for 15 years, longer than any of the other ISWOI unions. Approximately one-third have joined since the global agreement was signed in 2008. However, CITU has not focused its campaigns on G4S workers to any great degree, choosing to build membership within any company with willing workers.

For more than three decades, CITU had relied on its deep connection to the West Bengal's Communist-led Left Front government to secure wage gains and provide a favorable terrain for union activity. Its collaboration with UNI has not been deep, and it has generally resisted the adoption of new strategies to help

it to grow. Instead, it has continued to rely on its function as a labor broker, connecting unemployed workers with temporary jobs in informal industries like security, contract cleaning, domestic work, and others. It has amended this strategy, however, by adding a postscript to its usual message: "We tell them [the security guards] the company wants us to be in unions; that is the strongest message of why the company signed the global agreement in the first place. Then they will join."

After three decades of central planning, the Left Front government maintained decent relationships with large employers that allowed a degree of cooperation with CITU. Though this is not its stated modus operandi, this strategy became clear during a meeting with security guards, during which many of them claimed to support CITU's security guard union because it found them work in an otherwise jobless economy. The union does this on a rotating basis to ensure fairness and to secure the loyalty of as many workers as possible. Workers sign a union card and take a number, and eventually CITU connects them with a job.

The global agreement has not been incorporated into the union's organizing strategy, and there is no real interest in the organizing model. A CITU organizer explains:

> We have our way. We don't go and pretend to be from somewhere else and ask to fill in this survey and ask all these questions and then come back days later and say, "Oh, hi, I am from the union, from CITU." No, we go there and we tell the people we are the union. We tell them to join, to be united and strong. That's the way we do it. We have always done it this way.

He raises two important points that pertain to the implementation of the organizing model. The first touches on the issue of how unions approach nonunion workers, the second on data collection. Many North American labor organizers understand a union organizing drive as having distinct phases; first secret and underground, and then public. For the security unions in India, the idea of beginning covertly was new and at first disconcerting. Though the PSGU has come to see the value of this step with time, CITU has remained skeptical.

However, CITU has slowly come to appreciate the value of detailed record keeping and data collection. It may seem like a simple activity, but in practice it was not easy to adopt. A local official explains:

> It was strange to us and strange to them [the workers]. Why do we want to know where they live? Why do we want to know how many children they have? If they are married, if they have a vehicle, if they have other jobs. What business is that of ours?

None of the unions have anything resembling a dedicated research department, and the organizers, many of whom come out of the rank and file, have no experience in interviewing strangers about their lives. It would be naive to consider detailed data collection an obvious part of union organizing, or to assume

that it is an easy task to take up. In India, the information and statistics deficit within the trade union movement is mirrored on the grand scale when one endeavors to search for reliable data from the government. However, gradually the practice of record keeping has become part of the organizing process and all the unions claim to have benefited from UNI's insistence on having more information at its disposal. As a UNI organizer in India declares, "I counted every single damn union card that came into that office. I know how many people are there. They know. They didn't like it, but now they know."

A CITU organizer agrees. "Before, we knew we had workers," he says. "Now, we know who they are. It's better that way."

However, except for a reluctant acceptance of record keeping, CITU's security guard union has largely ignored the advice of UNI on issues of strategy. However, when its local discussions with management occasionally break down, CITU has sought help further up the chain of command, relying on UNI's global social dialogue process and the company's works council to intervene, neither of which has proved effective. At other times it has used protests at worksites, strikes, and hunger strikes to draw attention to the poor conditions under which security guards labor.

While the UNI organizers were generally welcomed in Bangalore, unionists in Kolkata were far more hostile to the idea of outsiders in the movement. After four years of UNI's presence in India, interviews conducted for this project suggest that none of UNI's staff have fared well with CITU leaders. One local Indian organizer remarked as follows on his feelings about UNI's leadership in Kolkata: "They [UNI] sent us girls. Two girls. I am a good man, nothing wrong with girls. But this is a trade union of security guards. You see what I mean?" Perhaps this comment is evidence of a fundamental truism with regard to both the trade unions and the transnational corporations operating in India: they are both dominated, with fierce determination, by men.

In 2009, the union held a successful two-day stayaway to pressure G4S to pay pension fund contributions. Then, in April 2010, to force G4S to comply with a series of demands for job security, appointment letters, and back pay, CITU held simultaneous actions in Delhi and Kolkata, including a protest in front of the British Embassy, which employs G4S guards. These actions, though technically in breach of the global agreement, and organized apart from UNI, resulted in a favorable determination from G4S to distribute back pay, for wages dating as far back as three years earlier, to over 100 workers. CITU's governing ally had been a primary partner in these local actions and had worked to pressure many companies, not just G4S, to pay the minimum wage.

In 2010, CITU officials decided that CITU would no longer accept financial support from UNI, citing "ideological differences," and an official in Delhi suggested that CITU would soon reconsider its participation within ISWOI altogether. He said, "We cannot say for sure what good [ISWOI] has done us, and maybe we might be better without it."

Nationwide

To this day, management in India is out of compliance with the global agreement in that it represses any instance of trade union organizing activity. But the global agreement has been effective in other ways.

In early 2009, G4S lost two contracts with large players in the Hyderabad-based technology sector (IBM and WIPRO)—with rumors about a third in the Salt Lake Area outside Kolkata—after it was forced to pay higher wages and larger pension contributions. "Do you know how difficult it is to stay competitive in India?" asked a G4S representative. "Do you know how many businesses try to do our work better and cheaper than us?"

In light of these developments, where union employers are being punished in the market, UNI has shifted to a new approach. The social dialogue process between UNI and G4S has not given rise to union rights or organizing neutrality as it has elsewhere. However, after a year of lobbying the state, with the company's support, it has nearly won nationwide legislation that could raise standards for security guards across the industry, effectively extending aspects of the global agreement into India's political arena.

Such legislation will undoubtedly require vigilance on the part of unions to implement it where it does not happen automatically. And given the fierce opposition of most of the industry and the pathetically low levels of unionization, it is unlikely to be implemented easily or immediately. Regardless of this, the legislation sets an important legal and political precedent for workers in the informal sector. The prospect of such a law was nearly crushed when UNI essentially abandoned its campaigns in India in late 2010 as a result of bureaucratic and financial difficulties. Indian law briefly prohibited UNI from funding its affiliate unions, causing it to remove its full-time staff person who was responsible for running the ISWOI coalition. However, UNI has once again been able to move its resources and staff in and out of the country freely, and is trying to resume the campaign where it left off.

VARIETIES OF LABOR TRANSNATIONALISM

Why have the CITU and INTUC unions used the global agreement differently? I find that the unions' divergent approaches—and varied successes—are based on (1) global-local union relationships, (2) traditions of state patronage, and (3) the legacies of labor internationalism and union imperialism.

Probably the most significant factor that determines the extent to which a global agreement is implemented is the relationship between the global union federation and the affiliate union or union group: the global and the local. We can clearly understand the desperate need for "bridge builders" to span the global-local divide when we examine the Indian case. Although the importance of such activists has featured strongly in accounts of labor-community coalitions

(Brecher & Costello, 1990; Nissen, 2002; Tait, 2008), rarely have they been seen as crucial to global campaigns. Local unionists in Bangalore were far more receptive to UNI's message and its staffers than local unionists in Kolkata for a number of reasons.

There is a strong UNI culture in Bangalore, absent from Kolkata, that exerts influence through the UNIDOC office. Though the PSGU has its own office, it holds most of its general meetings at the UNIDOC headquarters in Vasantanagar, in a spacious, clean office with a large meeting room decorated with photographs from UNI's various global solidarity actions. UNIDOC houses multiple unions, each conspicuously named "UNI" plus its corresponding trade name: UNITES (IT-Enabled Services), UNICOM (Tele-Communications), UNIFIN (Financial Services), and so on. UNI has positioned itself as the primary organizing body not only for workers in the vast informal economy, but also in the fast-growing services sector in Bangalore and Hyderabad. If there is a union in India with its finger on the political-economic pulse of the country's future, it is UNI.

Though the UNIDOC structure emphasizes industrial unionism, its constituent unions in the technology-related industries organize young workers by catering to a privileged class of professionals on the basis of status, income, and knowledge-based labor. These workers, UNIDOC staffers say, are of a new era, and do not identify with the public sector unions that have dominated the landscape throughout Bangalore's history. One might say the new workforce is presumed to have a different habitus than the average Indian union member, which inclines him or her to reject trade unions in favor of elite associations. UNITES, for example, the only union to materialize so far in the Indian IT industry, claims 20,000 members, and makes recruitment appeals almost solely through an on-line portal that describes the organization as a powerful NGO.

Though talk of "organizing unionism" is widespread, its actual realization has been stymied by the continuation of the old ways of business unionism, even cronyism. The UNIDOC unions also have a different relationship with employers. There is no global agreement to be implemented, there is no official UNI mentorship program for organizers, and they tend to avoid, whenever possible, direct confrontations with management. UNIDOC therefore fosters a collective identification with a common cause and global partner, though not necessarily a shared methodology. Nonetheless, UNI enjoys a positive reception within UNIDOC that is crucial to its success.

By contrast, CITU staffers report significant dissatisfaction with the UNI campaign. A CITU leader in Kolkata waves his hand dismissively at the air at the mention of UNI, as if batting away a fly. He also expresses a sense of hopelessness about the ISWOI coalition. Though he clearly states CITU's deep desire for labor movement unity, he doubts that INTUC shares his commitment to nonpartisanship, and therefore thinks ISWOI is more a UNI-directed front group than a legitimate, heterogeneous Indian organization. He raised his hands

and moved his fingers so as to suggest the movements of a puppeteer bringing life to a marionette.

This leader says membership growth has been no different since the collaboration started. But he is more troubled by the fact that CITU and the Indian unions seem to be under the influence, and direction, of UNI and SEIU. "We are not sure what good this has done," says another staffer at CITU. "We have to ask this question: 'Right now, why would workers join this union?' I have no idea," he says.

Second, the historical patterns of labor mobilization are embedded in the divergent political contexts of the two city-states of Bangalore and Kolkata. CITU's close connections to the reigning CPI[M] meant that for over 30 years the union faced little resistance from the state, and attracted members based on their political affiliations more than for any other reason. This situation led to a lack of incentive to develop a coherent organizing program for growth, since the state's role in mediating disputes and guaranteeing wages and conditions was so dominant.

In Karnataka, by contrast, although the INTUC unions grew alongside the Congress Party and enjoyed success in its state-run enterprises, the party has never held the same degree of control over the local political economy. In fact, the political history of Karnataka is opposite to that of West Bengal, as competing parties have for decades won alternating elections. As Patrick Heller (2000) describes for Kerala, this situation impresses upon parties the need to fight for local allegiances, creating a more active political climate. This has meant that unions in Bangalore have matured as less dependent on party-state alliances than elsewhere. Moreover, comparably rapid de-industrialization, the dramatic rise of services, and the Bharatiya Janata Party's (BJP) recent electoral victories in the Lok Sabha have forced the unions into a new quest for relevancy. Though union density fell as it did elsewhere, the circumstances listed above nonetheless seem to have sounded an important alarm for workers in Bangalore, where the old state-sector unions are organizing again and the new autonomous unions have found a significant reception among workers in the construction and telephone industries.

Finally, different historical experiences with transnational labor cooperation have affected the way unions in each place relate to UNI, and therefore the extent to which the global agreement has had currency. European trade unions have works council structures to help coordinate union actions and share information, even if they are sometimes dominated by management interests. Likewise, Latin American trade unions benefit from their involvement in regional politics through MERCOSUR, and even African unions have, at times, taken advantage of bodies like the Southern African Development Community to coordinate regional activity. India lacks such integration into an Asian bloc or trade union association (Kuruvilla et al., 2002). CITU unionists were also at the forefront of the movement that successfully opposed a social clause in global

trade agreements and World Trade Organization (WTO) rules, preferring to bank on the comparative advantage of poor workers in attracting jobs, rather than to raise standards everywhere. Indian trade unionism has therefore remained largely isolated and isolationist, despite the country's status as a emerging power in the global economy.

Despite this legacy, higher levels of direct foreign investment in Bangalore have meant that workers there, especially in major growth industries, have recently been brought into contact with campaigns led by unions outside the country. Such is the case in the construction, telecommunications, security, contract cleaning, and chemical industries. By contrast, Kolkata, as the erstwhile capital of the British Empire in India, was on the receiving end of much imperialistic union activism from the UK. This has impacted the perception of international collaboration with local unions to this day. A CITU leader spoke to his relationship with UNI staff:

> They [UNI] don't understand us. It's as simple as that. To work with people, you have to understand what they do, how they operate, what they are like. They know us only as workers, not as people. We have our way, and it is not theirs, and they are pressurizing us to change. Okay, so that is their job. But we do our job and we do not do it like they want always. So, you can say we are not in agreement at all times. It has always been like that for Indians and Europeans, you know this, right? Read, ask people, you will see.

CONCLUSION

I have argued that Indian unions collaborated with UNI in varied ways to win and implement the global agreement. I focused first on the unique context of Indian industrial relations—involuted pluralism, deeply politicized unions, massive informalization—and then moved on to discuss how this context shaped the campaign strategy. The main strategic response to this situation was to attempt to overcome the deep political chasms between unions within India by building the ISWOI coalition. Imperfect and fragile, it has nonetheless acted as a reasonable framework within a country that has rarely seen sustained cross-federation union collaboration.

Regarding the implementation of the global agreement, ISWOI achieved partial success by bringing the employer (G4S) into compliance with national law (the Contract Labour Act), which required that it pay higher (legal) minimum wages and pension fund contributions. Unlike the situation in South Africa, for example, where the global agreement constrained management's antiunion behavior (McCallum, 2011), local G4S leaders were not asked by the UK-based leadership to act in accordance with the agreement. This fact encouraged a different tactical maneuver by UNI. ISWOI was forced to redirect its claims away from management and toward the state. The result, which was the outcome of a cumbersome yet ultimately productive social dialogue process with

management, has been the establishment of new legislation to raise standards for five million security guards in the country, in terms of higher pension fund contributions, wage increases, and mandated ID cards.

This demonstrates that the global agreement, on the surface a simple labor contract, can be used by unions to win different kinds of gains. In this instance, the power of the global agreement turned out to be the fact that it generated a social dialogue process. As one UNI organizer put it, "Now we have a place to solve problems. Without that space, none of this would have happened."

In the Indian case, we see that the influence of local bridge builders was also critical. In Bangalore, local organizers credit UNI's staff with helping to develop a new kind of "scientific" unionism, whereas in Kolkata, UNI was marginalized based on perceived cultural divisions and political incompatibilities. These differences help to explain why the global agreement received a different amount of attention in each city and why it was more thoroughly implemented in Bangalore than in Kolkata. Other reasons for the differential attention and implementation include the relationships between unions and the state and the legacies of past labor imperialism.

However, the challenges facing the Indian unions are still great. Massive employer repression has held much constructive organizing at bay, and the unions in both cities remain loose formations, with rotating and fluctuating membership. UNI's recent exit from India, based on "resource issues," raises obvious questions about the sustainability of the ISWOI coalition without local UNI staff to monitor it. Therefore, we can conclude that the UNI-ISWOI collaboration represents an important step forward in the Indian labor movements, which has heretofore had very limited experience with transnational collaboration. However, it remains to be seen whether or not it has helped to develop a strong enough local structure to sustain a lengthy campaign against the largest multinational company in the country.

REFERENCES

Agarwala, R. 2006. From work to welfare: A new class movement in India. *Critical Asian Studies,* 38: 419–444.

Agarwala, R. 2008. Reshaping the social contract: Emerging relations between the state and informal labor in India. *Theory and Society,* 37: 375–408.

Balasubramanyam, V. N., & Mahambare, V. 2001. India's economic reforms and the manufacturing sector Retrieved from http://eprints.lancs.ac.uk/48546/1/Document.pdf, December 2011.

Bhattacherjee, A., & Azcarate, F. 2006. India's new unionism. *New Labor Forum,* 15(3): 64–73.

Bhattacherjee, D. 2001. The evolution of Indian Industrial relations: A comparative perspective. *Industrial Relations Journal,* 32: 244–263.

Bhowmik, S. K. 2009. India: Labor sociology searching for a direction. *Work and Occupations,* 36: 126–144.

Brecher, J., & Costello, T. (Eds.). 1990. *Building bridges: The emerging grassroots coalition between labor and community.* New York: Monthly Review Press.

Burawoy, M. 2010. From Polanyi to Pollyanna: The false optimism of global labor studies. *Global Labour Journal,* 1: 301–313.

Busch, G. K. 1983. *The political role of international trade unions.* London: Palgrave Macmillan.

Candland, C. 1999. Labour, industry and the state in India and Pakistan. In R. Munck & P. Waterman (Eds.), *Labour worldwide in the era of globalization: Alternative union models in the new world order,* 175–198. New York: St. Martin's Press.

Chibber, V. 2005. From class compromise to class accommodation: Labour's incorporation in the Indian political economy. In M. Katzenstein & R. Ray (Eds.), *Social Movements and Poverty in India:* 32–61. London: Rowman & Littlefield.

Das, S. 2000. A note on trade union density in India. Working Paper, Department of Collective Bargaining, Cornell University.

Davala, S. 1996. Independent trade unionism in West Bengal. *Economic and Political Weekly,* 31(52): L44–L49.

Frankel, F. R. 2005. *India's political economy 1947–2004: The gradual revolution* (2nd ed.). New York: Oxford University Press.

G4S. 2009. Global united front: New partnerships with leading unions will help protect the needs of G4S customers, employees and shareholders around the world. Retrieved from http://www.g4s.com/~/media/Files/International%20magazine/2009%20Issue%201/g4s_international-g4s17-unitedfront_10-11.ashx, December 2011.

Gallin, D. 2001. Propositions on trade unions and informal employment in times of globalization. In P. Waterman & J. Wills (Eds.), *Place, space, and the new labour internationalisms:* 227–245. Oxford: Blackwell.

Gordon, J., & Gupta, P. 2004. Understanding India's services revolution. Retrieved from http://www.imf.org/external/pubs/ft/wp/2004/wp04171.pdf, December 2011.

Harriss-White, B., & Gooptu, N. 2001. Mapping India's world of unorganized labor. In L. Panitch & C. Leys (Eds.), *Working classes, global realities:* 80–118. London: Merlin Press.

Heller, P. 2000. *The labor of development: Workers and the transformation of capitalism in Kerala, India.* Ithaca, NY: Cornell University Press.

Hensman, R. 2010. Labour and globalization: Union responses in India. *Global Labour Journal,* 1: 112–131.

Hill, E. 2009. The Indian industrial relations system: Struggling to address the dynamics of a globalizing economy. *Journal of Industrial Relations,* 51: 395–410.

Kuruvilla, S., Das, S., Kwon, H., & Kwon, S. 2002. Trade union growth and decline in Asia. *British Journal of Industrial Relations,* 40: 431–461.

Kuruvilla, S., & Erickson, C. 2002. Change and transformation in Asian industrial relations. *Industrial Relations,* 41: 171–228.

McCallum, J. 2011. Trade union renewal and labor transnationalism in South Africa: The case of SATAWU. *Working USA: The Journal of Labor and Society,* 14: 161–176.

Niforou, C. In press. International framework agreements and industrial relations governance: Global rhetoric versus local realities. *British Journal of Industrial Relations.*

Nissen, B. (Ed.) 2002. *Unions in a globalized environment: Changing borders, organizational boundaries, and social roles.* Armonk, NY: M. E. Sharpe.

RoyChowdhury, S. 2003. Old classes and new spaces: Urban poverty, unorganised labour and new unions. *Economic and Political Weekly,* 38: 5277–5284.

Rudolph, L. I., & Rudolph, S. H. 1987. *In pursuit of Lakshmi: The political economy of the Indian state.* Chicago: University of Chicago Press.

Seidman, G. 2008. Transnational labour campaigns: Can the logic of the market be turned against itself? *Development and Change,* 39: 991–1003.

Sengupta, A. K., & Sett, P. K. 2000. Indian Industrial Relations Association digest. *Industrial Relations Journal,* 21: 144–153.

Sharma, A. 2006. Flexibility, employment and labour market reforms in India. *Economic and Political Weekly,* 41: 2078–2085.

Tait, V. 2008. *Poor workers' unions: Rebuilding labor from below.* Boston: South End Press.

Uba, K. 2008. Labor union resistance to economic liberalization in India: What can national and state level patterns of protests against privatization tell us? *Asian Survey,* 48: 860–884.

UNI. 2009. The inequality behind India's Economic Boom: G4S security workers fight for their rightful place in a growing economy. Retrieved from http://www.policing-crowds.org/security/article/g4s-security-the-inequality-beneath-indias-economic-boom/, December 2011.

Venkataratnam, C. S. 1998. Judicial activism: Implications for workers and consumers. *Indian Industrial Relations Association Digest,* 4(2–3): 1–7.

Yadav, Y. 2004. Economic reforms in the mirror of public opinion. *The Hindu,* June 13.

Direct reprint requests to:

Jamie K. McCallum
Department of Sociology and Anthropology
Middlebury College
56 Court Street, #2
Middlebury, VT 05753
e-mail: mccallum@middlebury.edu

ACTIVIST PERSPECTIVE: ENGAGED SOCIOLOGY AND LABOR'S STRUGGLES

JEFFERY HERMANSON
Writers Guild of America, West

The Labor in the Global South conference, which generated the papers in this issue of the *Journal of Workplace Rights*, was a great conference for me for several reasons.

The subject matter was really labor *struggles* in the global South, and the approach was to seek to understand the diverse struggles and to learn from them in order to guide future struggles. The participants were young and not so young scholars, mostly grad students but some established faculty, with a few "practitioners"—trade union and NGO activists—mixed in. A number of the scholars were also seasoned practitioners. The general attitude toward the struggles analyzed was critical but not cynical or negative; engaged, partisan, but not sectarian or dogmatic.

The result was a conference with papers, presentations, and discussions that advance our understanding of labor struggles in the global South, in countries as diverse as Turkey, China, Mexico, Argentina, Chile, India, and South Africa, and that provide many lessons for future work and struggle, whether scholarly or practical. Here are two examples.

The paper by Rodolfo Elbert, "How Do Unions Respond to Nonstandard Work Arrangements?—Relations between Core and Non-Core Workers in a Food Processing Factory (Argentina, 2005–2008)" chronicles the struggle of workers at a unionized factory in a working-class Buenos Aires community against "flexible employment." Flexible employment—outsourcing, subcontracting, employment of temporary workers either directly or through agencies— is one of the key elements of the neoliberal economic program implemented

by many governments and corporations in recent years, especially in the global South. While economists speak of this trend as "removing and reducing labor market rigidity," for workers it means lower wages, fewer (if any) benefits, and reduced job security. Elbert asks whether workers can resist or counter employer efforts to expand flexible employment by developing relations of solidarity. The answer, in the case of these workers, is yes, by grassroots organizing at the factory level, building solidarity between temporary workers, outsourced workers, and subcontracted workers and their permanent employee colleagues, and acting collectively in job actions around specific issues, using each victory to encourage further actions.

Elbert documents how, over the three years covered by this study, rank and file activists used shop floor conversations and community social events such as birthday parties and soccer matches to build relations that developed into weekly meetings of hundreds of workers, and how they used job actions that progressed from a refusal by temporary workers to work overtime, to two-hour and three-hour work stoppages, and finally to a full-scale factory-wide strike and the blocking by workers of the Panamericana Highway near the plant. As the actions grew in size, duration, and intensity, the workers' demands grew from increasing temporary workers' wages to incorporating all temporary, outsourced, and subcontracted workers into the company's permanent core workforce. They won what they demanded in spite of their national union's acceptance of flexibilization, demonstrating the power of plant level activists to act autonomously when they have the broad support of the rank and file workers.

The presentation by Sze Wan Debby Chan of the Hong Kong NGO Students and Scholars against Corporate Misbehavior (SACOM) described the ongoing crisis in the situation of workers at the huge Taiwanese IT manufacturing company, Foxconn. Foxconn is the world's largest contract manufacturer of consumer electronics—laptops, tablet computers, and smart phones, for companies like HP, Dell, and Apple, including the iPad and iPhone—employing perhaps one million workers, mostly in China. After a disturbing wave of young worker suicides in Foxconn's Shenzhen factory—perhaps the world's largest manufacturing facility, with between 300,000 and 450,000 workers—the company management increased wages significantly and relocated part of the company's production to a rapidly constructed factory of 100,000 workers in the Chinese interior city of Chengdu, Sichuan. SACOM's investigation of the new Chengdu factory exposed serious health and safety problems, including excessive accumulations of aluminum dust in the iPad polishing department. Days after SACOM issued a public report on its investigation, citing the problem of excessive aluminum dust in that department, the dust exploded, killing three workers and injuring seventeen.

Subcontracting manufacturing to a legally independent company like Foxconn is a more and more common approach being taken by multinational brands like Apple, Nike, and others, as they seek to distance themselves from responsibility for the production of their products and for such realities as the suicides in

Shenzhen and the accident in Chengdu. After finishing her participation in the Labor in the Global South conference, Sze Wan traveled to the Cupertino, California, headquarters of Apple to confront management with the demand that they should take responsibility for the conditions in the factories where their goods are made.

This is engaged sociology, research, and analysis being used as instruments in labor's struggles, seeking the lessons of experience to guide our actions. The themes tackled in these two presentations—confronting flexible employment and exposing the conditions under which branded items are manufactured—are among the most important of our time.

As someone involved in organizing workers in the global south and partici-pating in their struggles, I believe this is the approach and the result that is needed—at least it's what I need.

Direct reprint requests to:

Jeffery Hermanson
Writers Guild of America, West
7000 West 3rd Street
Los Angeles, CA 90048
e-mail: jhermanson@wga.org

¡SOY MEXICANA Y TENGO DERECHOS! INDEPENDENT LABOR ORGANIZING ON THE U.S.-MEXICO BORDER

HEATHER FRAMBACH
The University of Texas at Austin

ABSTRACT

This article begins by providing the historical context for the emergence of the Mexican maquiladora industry against a backdrop of ill-enforced labor laws and extensive corruption within official labor institutions. Following this, a case study of a women-centered group based in Piedras Negras, Coahuila, is presented. It highlights the forms and strategies of maquiladora workers organizing for their rights on the shop floor and within their communities. In addition, the case study examines the edges of Marxist ethnography and theory produced on the border, exposing the way in which the actual activities of women worker activists have broken the Marxist mold.

INTRODUCTION

Currently, the rights of Mexican workers within maquiladoras—foreign-owned export-oriented assembly plants—are generally not upheld, despite ample protections guaranteed by the Mexican Constitution and the country's federal labor laws, and despite the fact that, by international standards, these laws offer some of the most progressive worker rights and safeguards in the world. Maquiladora workers are routinely denied the most basic rights called for by the International Labour Organization (ILO), as well as the additional benefits delineated in Mexico's own labor legislation. Top political officials have remained beholden to the economic interests of foreign investors, with masses of corrupt, federally

425

426 / FRAMBACH

appointed mid- and low-level representatives of the official government labor unions blocking efforts to enforce the letter and spirit of the country's labor laws.

Despite these challenges, women workers are at the forefront of seeking both the enforcement of their rights and the democratization of the labor union political structure within Mexico. Women have been specifically targeted for employment ever since the beginning of the *maquila* industry, and although men now comprise roughly half of the *maquila* workforce, women workers continue to face unique community and workplace threats and challenges that shape the discourse of resistance to domination and struggle in the workplace. These worker struggles, under the umbrella of grassroots labor organizing, have taken on several forms and strategies since the independent labor union movement began to gain traction once the consequences of the North American Free Trade Agreement (NAFTA) for Mexican workers became apparent. Maquiladora production is intricately interwoven with recent Mexican history, yet it is also a representative case of the overall globalization of production that has expanded internationally since the mid-20th century. This article engages with the strengths, threats, and opportunities associated with the efforts of workers to overcome the problems of transnational manufacturing through individual, collective, and institutional means by way of community organizing and independent trade unionism. Maquiladora production in Mexico presents a pertinent case due to the country's proximity to the United States, which has wielded its economic power to create a favorable business climate for its firms that have elected to relocate the production and assembly of goods across the border. As a result, much of the literature on Mexican labor movements and struggles has outlined the history of corruption and the lack of enforcement of federal labor laws and articles of the Constitution (Kamel & Hoffman, 1999; La Botz, 1992; Lugo, 2008; Muñoz, 2008; Peña, 1997). This article provides a brief overview of this history and the social, environmental, political, and legal challenges of life and labor on the border given the complexity of U.S.-Mexico relations, in addition to the history and strategies of official and independent unions in Mexico. Following this overview, I highlight a unique case study of a women-centered alliance of organizers and independent unionists that is currently working on the border both on the shop floor and in workers' communities. Finally, I argue that conceptions and discourses of resistance are incredibly important in the context of globalized labor struggles, in part by comparing a particular progressive strand of Marxist rhetoric with the rhetoric of workers themselves.

I draw on the extensive body of knowledge that has been constructed on the border pertaining to the maquiladoras, from labor researchers to feminist scholars, to Chicano and mexicano ethnographers who have entered the factories as visitors or as workers themselves. Following Hale (2006), this article is also an example of activist research, a work of research in alignment with and thoroughly shaped by a group in struggle. Since August 2010, I have been an active organizer and volunteer with Austin Tan Cerca de la Frontera, an Austin,

Texas, based group that is oriented around border and maquiladora issues and is a key ally of the Comité Fronterizo de Obreras (CFO), a women-centered maquiladora worker nongovernmental organization (NGO). In late 2010, I participated in a delegation that traveled to Piedras Negras, Coahuila, and Ciudad Acuña, Coahuila, and I have also participated in various interviews and events with Austin Tan Cerca and CFO activists over the past year.

THE U.S.-MEXICO BORDER

> The US-Mexican border es una herida abierta where the Third World grates against the first and bleeds.—Gloria Anzaldúa

> [Mexico] make[s] public functionaries into a species of retail salespeople, and the president of the republic into the sales manager of a gigantic business: Mexico, Inc.—Subcomandante Marcos

Particularly in recent years, the U.S.-Mexico border region has been characerized by stories, perceptions, and images of sexualized danger, destitute poverty, and toxic waste. The borderlands are unique in that no other border features the stark inequality found when a dominant political-economic power abuts a Third World country, with massive flows of human migration and raw and assembled material pouring through the gaps along this heavily militarized political boundary (Alvarez, 1995). From the time of the "border troubles" associated with U.S. western expansion and the Mexican-American War to the present day shootouts and kidnappings that stem from the surge in cross-border narcotics trafficking, U.S.-Mexico relations have often been bound up with violence.

Feminist scholars have noted that border violence is as discursive as it is material, particularly with regard to border women. The border can serve as a binary metaphor, where relations of power and inequality are highly racialized and gendered, with Mexico symbolizing a sexualized Other. Border women are perceived to be prostitutes, job-stealers, alternately passive and transgressive, and victims—most notably, of the hundreds of unsolved femicides that have plagued the large border city of Ciudad Juárez for decades. In the workplace, women are routinely the objects of sexual harassment, assault, and even rape, and they struggle to defend their rights and dignity (Carroll, 2006; Gutiérrez, 1996; Salzinger, 2003; Wright, 2006).

Environmental activists and advocates have also written extensively about another kind of violence, that is, against the border's ecological systems and resources. Environmental justice advocates have documented the effects of degradation related to factory and energy production on human communities living on the border, particularly the effects of exposure to heavy metals, toxins, exhaust fumes, and other pollutants that can lead to birth defects in children, such as spina bifida, and increased rates of cancer and other types of illnesses among adults (Carruthers, 2008; Langewiesche. 2002).

MAQUILADORAS: PAST AND PRESENT

These problems of social, economic, and environmental violence are intricately related to the maquiladoras, foreign-owned factories that import raw materials for assembly by Mexican workers and export the final product—everything from car parts to fuses, denim jeans, televisions, even body bags—to the country where it will be sold. Given the proximity of Mexico to the United States, the drastically lower wages of its workers, and the lax enforcement of its environmental and labor laws, the border region has served as an ideal site for assembly plants serving the United States, and the maquiladora industry has continued to expand since its emergence as a major sector of the Mexican economy in the 1960s and especially in the wake of the North American Free Trade Agreement's passage in the 1990s.

Export-processing zones have been located in Mexico since the 1940s, but it was not until the setting up of the Border Industrialization Program (BIP) that the maquiladoras were established in larger numbers along the border (Sklair, 1993). The BIP was initiated in 1965 after the termination of the Bracero Program in 1964. The end of the 20-year Bracero Program meant that hundreds of thousands of (male) Mexican workers who had been working temporarily in the United States were now faced with unemployment, which was worsened by a wave of agricultural worker migration from the south of Mexico to the north near the border. In response, the Mexican government introduced the Maquiladora Program as a part of the overall BIP, converting nearly the entire border region into a relaxed-regulation export-processing zone, with the stated objective that the new maquiladoras would provide work for the hordes of unemployed men in the border region in the style of the rapidly industrializing East Asian "Tiger" nations, while stimulating the Mexican economy (Lugo, 2008; Salzinger, 2003).

However, this strategy of development failed to boost the Mexican economy; the U.S. firms that flooded the designated maquiladora zone along the border imported their own raw materials and used their own equipment, to the chagrin of the architects of the BIP. Furthermore, the *maquila* workforce was over-whelmingly composed of women, a trend that pervaded the *maquilas* until recently. According to *Genders in production*, Leslie Salzinger's (2003) feminist critique and analysis of maquiladoras and their history, this can be explained by the construction of "productive femininity," or the perception of trans-national firms that Mexican women made for ideal workers, given their supposed docility, nimbleness, and dexterity. However, Salzinger argues, "produc-tive femininity" is not an inherent trait of Mexican women, but rather a construction that is *produced* on the shop floor in relation to the strategies *maquila* managers employ within the factory, resulting in the "feminization" of the *maquila* industry itself, even though men have begun to enter the factory doors in increasing numbers in recent years (Rosenberg, 2008; Salzinger, 2003: 10–11). This critique complements the work of other feminist scholars, such as Amy Sara Carroll (2006) and Melissa Wright (2006), in their claims that the

"maquila-ization" of Mexico has reproduced and perpetuated the discourse around Mexico and the borderlands as the feminized, binary Other to the masculinized United States.

Since its inception, the industry has experienced several phases of boom and bust. *Maquilas* opened, clustered around the border, at a steady, stable rate until the 1970s, when the economic recession in the United States combined with worker uprisings and a peso inflation almost resulted in the flight of many, if not all, of the *maquilas*. Just a decade later, in the 1980s, the sector experienced a boom following a massive devaluation of the peso and a calming of labor relations, which sparked a rapid increase in U.S. investment in plants as well as an increase in debate about the future of the maquiladoras. Within Mexico, many top officials and planners championed the *maquilas* as an all-round boon to Mexican development and a path to an equal playing field with the Asian Tigers, but several vocal skeptics expressed concern that the industry was not adequately integrated with the rest of the Mexican economy (Sklair, 1993; Wilson, 1994).

By the 1990s, 80% of the *maquilas* were still located in the border region, and although the sector had been growing steadily since the 1980s, following the passage of NAFTA in 1994 the industry grew by 86% by the year 2000. The complex agreement ended the Maquiladora Program but formalized and streamlined many of the transnational industry practices that had already been in place, and the elimination of the restricted free trade border zone, as well as the elimination of many tariffs and quotas, stimulated *maquila* production and allowed the industry to venture further south into the Mexico (Gruben & Kiser, 2001; Rosenberg, 2008). This influence is evident in the swell of *maquila* employment. At the time of the passage of NAFTA in 1994, the industry employed just over 500,000 workers; at the close of 2006 that number had risen to more than 1.1 million workers (Rosenberg, 2008). Additionally, NAFTA has intersected with Mexican labor laws and labor struggles in complex ways, involving, for example, the relationships between workers and unions.

OFFICIAL LABOR LAWS AND GOVERNMENT UNIONS

> No, Mexico's problem is not the campesinos. . . . The problem, the great and tragic problem of the country, is that it was and still is set up by the educated people, the engineers, the bureaucrats, the rectors of national life, with their colonialist education, who hate the people and can only conceive of them as peons or servants.—Fernando Benítez

Mexican Labor Laws

The Mexican Constitution, adopted in 1917 toward the end of the Mexican Revolution, contains Article 123, which grants workers basic labor rights including the right to collective bargaining and the right to organize labor unions, as well as a minimum wage, an eight-hour day, overtime pay, safety standards, and

protections for women and children. To enforce these rules, the article established the regional Boards of Conciliation and Arbitration, which are composed of employer and labor union representatives and are endowed with tremendous power and discretion as outlined by the article, and cemented by court cases that ruled that the boards could make legally binding decisions and agreements. A decade or so later, the Ley Federal de Trabajo (Mexican Labor Law) was passed, establishing one of the most progressive pieces of labor legislation in the world, building upon the provisions already provided within Article 123. The law provides for key rights such as minimum wages and benefits, rights with regard to overtime hours and maternity leave, mandatory three-month severance pay for termination without cause, and rules for the establishment of unions and procedures for arbitration and remediation.

However, amendments to the law passed in the early 1970s placed severe restrictions on worker power to form independent unions or otherwise organize for worker rights in the event of a dispute. These restrictions include the *registro*, a system of registration in which legal authorities have wide discretion with regard to approving or rejecting a proposed independent union; the lack of a secret ballot for union elections and allowance for intimidation in union elections; the ability of firms to easily dismiss dissident workers by paying them three months' worth of wages; the ability of the boards to reject a strike as legitimate; the *requisa*, or possibility of government and military seizure of a workplace in the event of a worker uprising or strike; and the preclusion of meaningful collective bargaining through "protection contracts," which are union contracts that are signed by the company and union officials with no worker input and that effectively lock out opportunities for worker organization or accountability to Mexican labor laws. In many cases, protection contracts are known as "paper unions" or "ghost unions," due to the fact that many workers in *maquilas* that have protection contracts are unaware that the contract exists, that they are represented by an official union, or that they have any rights at all (La Botz, 1992).

Official Unions

As a result of these restrictions, independent labor unions are fairly rare. Instead, labor unionism in Mexico is dominated by large, bureaucratic, official unions that are marked by a history of extensive political corruption. Despite the pervasiveness of antidemocratic practices, workers have continually mounted persistent campaigns of organized resistance since the inception of the current official union structure.

After the fallout from the Mexican Revolution, President Lázaro Cárdenas, a consummate populist, set about coopting the masses through several large-scale initiatives under the banner of the Partido Revolucionario Institucional (PRI), including a bungled attempt at top-down land reform and the leveraging of Mexico's largest official union, the Confederación de Trabajadores de Mexico

(CTM), as an umbrella organization with massive participation (Benítez, 2002). Cárdenas left office in 1940 and cemented the tradition of the *dedazo*, or the practice of hand-picking one's successor, which led to the single-party rule of the PRI over Mexico for a total of nearly 70 years, which included the dominance of the official unions that were de jure extensions of the party.

By the 1970s, in many areas more than 90% of Mexican workers were affiliated with the CTM, with the rest affiliated with the Confederación Revolucionaria de Obreros y Campesinos (CROC) or the Confederación Regional Obrera Mexicana (CROM) (Otero & Pagán, 2002). Other unions that are common but have typically held less political power include "white" unions, which are company unions, and independent unions, which are discussed below. Until the 1990s, workers were required to affiliate with one of these unions, usually a government union or its subsidiary, in effect requiring membership in and political affiliation with the PRI—a requirement that was enforced through rampant intimidation. Even after the 1990s, when the "forced mass affiliation" requirement was ended, the new "voluntary" campaign was hardly different, as union bosses continued to pledge their affiliation to the PRI and aggressively recruit "voluntary" workers to the party and union (La Botz, 1992).

Charrismo

Official government unions are commonly referred to as *charro* unions, which is meant to denote the corruption that workers experience at the hands of such unions. For all of the protections offered by the federal labor law, *charrismo* is the effective denial of many of these rights. Union bosses are appointed by the government for terms of up to 30 years, and there is little recourse for workers to be found in the government- and corporate-controlled boards. The "official" union apparatus is, more or less, a sham; the system does not deliver the most basic of union activities and services. Raul Trejo Delarbre, supporter of a corporatist union model but nevertheless a critic of the current Mexican union system, writes that

> Political bossism as a substitute for the participation of workers has continued to be the predominant conduct in major Mexican unions. The almost total absence—in many cases the complete absence—of union meetings, union newspapers, workers' commissions, combined with the lack of interest in defending labor union rights, and the infrequent exercise of open protest or strikes, have made the labor movement of our country what it is today: an habitually inactive unionism marked by rampant corruption and authoritarianism. (La Botz, 1992: 33)

The unions are distinctly lacking in transparency, responsiveness, and, most of all, democracy. For this reason, thousands of workers, particularly in the western portion of the border, have shunned unions altogether. In the eastern portion, in cities such as Matamoros, Nuevo Laredo, and Reynosa, official union affiliation

is close to 100%, but in places like Juárez, Mexicali, and Tijuana it can be as low as 20% (La Botz, 1992).

Wages

One of the areas in which official unions have failed to uphold worker rights under Article 123 and the federal labor law is wages. In Mexico, there are three wage zones, each with its own minimum wage, but currently there is no substantial difference between Zones A, B, and C, with minimum daily wages of approximately 59 pesos, 58 pesos, and 56 pesos respectively (Servicio Administración Tributaria de México, 2010), which translates to roughly $5 per day.

According to data collected on average wages in Ciudad Juárez, the wages received by maquiladora workers pale in comparison to the lowest wages in the United States, even when the Mexican minimum wage is exceeded. Table 1, current as of January 2011 and based on an exchange rate of 12.25 pesos to a U.S. dollar, shows that the average worker's base pay plus benefits amounts to 26.5 pesos, or roughly two dollars per hour (El Paso REDCo, 2011).

Making roughly one or two dollars per hour can present severe economic and social constraints for workers, particularly when the cost of the *cesta*, or basket of everyday goods and necessities purchased by most households, exceeds the wages earned, particularly if the household is headed by a single parent.

Wages are not the only thing lacking in this context. As labor researcher Dan La Botz (1992: 27) notes, "the big issue . . . is not wages, but benefits. . . . particularly in small- to medium-sized shops, [workers] do not receive legally mandated benefits" such as Social Security (the federally administered health-care system), year-end bonuses, or childcare, and most workers will work for years or even their entire careers without a single day of paid (or even unpaid) vacation. The lack of childcare in particular has serious social repercussions, as women are forced to lock their children and even infants in the home for the entire day or night, with no one but perhaps an older sibling to look after them and with little to eat.

Table 1. Average Wages in Ciudad Juárez

Wage category	U.S. dollars per hour	Mexican pesos per hour
Average base operator wage	1.00	12.25
Legal benefits (including healthcare)	0.59	7.22
Optional benefits (childcare, cafeteria coupon)	0.57	7.03
FULLY LOADED HOURLY WAGE	2.16	26.50

Living Conditions

Home economic life can be even further constrained in the case of certain types of land and home occupancy. In many cases, especially when individuals or families migrate from another part of Mexico to the border region, they arrive with very little, if any, material wealth with which to purchase or rent a home. As a result, many will select a plot of vacant land in a *colonia* (neighborhood) and slowly acquire construction materials, as they can afford to purchase them, with which they build a home, piece by piece. Others will reside in housing developments constructed by the maquiladoras themselves, which consist of uniform, box-like houses of approximately 500 to 600 square feet that are common in places in the eastern part of the border, most notably in Ciudad Acuña. These houses are purchased by the workers, but the houses are often attached to mortgages with ever-increasing interest rates and the stipulation that the mortgage payment must come out of the worker's paycheck, which can dig deeply into a household's family income. While the federal labor law banned payment in scrip that needed to be redeemed at company stores, maquiladoras have dis-covered this other, very effective, means of creating debt peonage. Many homes in these developments double as home businesses, selling tacos, clothes, snacks, or beer and soda in the effort to make ends meet.

INDEPENDENT UNIONISM ON THE BORDER

> On the border, we have known the maquiladoras for thirty-four years, and we are not satisfied.—Comité Fronterizo de Obreras

History

Maquiladora-specific independent labor unions, seeking to break up the dominant structure of official union "representation," emerged in the 1960s and experienced a significant expansion in the 1970s and 1980s, despite numerous challenges. The barriers to establishing an independent union are enormous. The dual problems of the government turning a blind eye to labor law violations (i.e., unpaid wages and benefits, lax safety standards) and the aforementioned restrictions on labor rights are extremely effective in locking out attempts to democratize labor representation within the *maquiladoras*. The *registro* clause of the federal labor law makes it all too easy for the Boards of Conciliation and Arbitration to deny the registration of a new union, and if a *charro* union or protection contract is already in place in the factory, it is virtually impossible to replace that union through conventional channels, no matter how corrupt or ineffective that union may be (Muñoz, 2008).

Independent unionism's first major success in the *maquila* sector was at the Han Young (Hyundai chassis manufacturing) factory in 1997, in which workers managed not only to hold a union election but to elect an independent union over

an official union. Only after an extended hunger strike were the results of the election certified, but the company never honored the results. After the company brought in new workers and let the official union back into the factory, no independent collective bargaining contract ever materialized (Muñoz, 2008). Stories like that of Han Young and other thwarted or failed attempts to break up the official unions show just how deeply invested the state-economy-union complex is in preserving the official union structure. In Mexico, unions do not function to represent workers, but rather to keep wages low. This repression can be the source of labor unrest and some political instability at times, but the continued investment can be seen as an aspect of capitalism on which James C. Scott (1998: 336) elaborates:

> capitalist profit requires not only efficiency but the combination of efficiency and control. . . . Efficiency at best creates a potential profit. Without control the capitalist cannot realize that profit. Thus organizational forms which enhance capitalist control may increase profits and find favor with capitalists even if they affect productivity and efficiency adversely.

In other words, organizational forms such as official unions, though they may hinder efficiency due to the resulting labor unrest, have the ultimate goal of controlling labor at any cost as long as it maintains Mexico's comparative advantage of offering cheap, "docile" labor to the globalized market.

Due to the sizable challenges facing independent unionization on the shop floor, many of the organizing efforts have had to originate in the wider community in order to sustain themselves. Dozens of NGOs are dedicated to such organizing, including well-known groups such as the San Antonio-based Coalition for Justice in the Maquiladoras (CJM), the Centro para la Orientación de Mujeres Obreras (Center for the Orientation of Women Workers-COMO), the Centro Obrero (Worker Center), and others.

Case Study: Comité Fronterizo de Obreras and Los Mineros

The Comité Fronterizo de Obreras (Border Committee of Workers–CFO) is not as well known as other maquiladora-related NGOs, despite its 30-year history of organizing, which began with a binational collaboration between workers and the American Friends Service Committee, an arm of the Society of Friends (Quakers). This can be partially explained by the fact that much of the literature has focused on the largest and westernmost of border cities, with a particular emphasis on the complex agglomeration of *maquilas*, femicides, prostitution, and drug-related violence in Juárez and Tijuana. The CFO, on the other hand, is based in Piedras Negras, Coahuila, a smaller city across the border from Eagle Pass, Texas, in which the drug cartels have not set up operations. The CFO also actively organizes in Ciudad Acuña, Matamoros, Reynosa, and other cities that are further east of other major organizing efforts.

The CFO has several major project areas in which it works. Its first and oldest area is grassroots worker education, in which workers are educated about their rights under the Mexican labor law, and coached on how to effectively demand the wages, benefits, and health and safety standards they are entitled to enjoy (Langewiesche, 2002). This simple education campaign has been enormously successful for thousands of workers, virtually all of whom were unaware of their rights under the law. Workers have lobbied for and successfully received wage increases and back pay for overtime and other benefits. Additionally, workers have succeeded in getting companies to comply with a higher level of safety standards by providing workers with appropriate equipment such as protective goggles and gloves, updating manufacturing equipment, and installing safeguards to protect workers on the production line from excessive exposure to chemicals and heat. One of the CFO's major victories was attracting sufficient attention to the illegal practice of pregnancy testing that was widespread in the *maquilas*, which has led to a near total elimination of the practice in most areas (Comité Fronterizo de Obreras, 2000).

Another part of the overall organizing strategy of the CFO involves a participatory framing of the problem. The organization is structured like an egalitarian network, composed entirely of former and current maquiladora workers. As workers become more educated about their rights and experienced in defending themselves on the shop floor, many choose to become more deeply involved with the CFO and become *promotoras*, or organizers/promoters, who in turn educate more workers about their rights. The CFO also regularly publishes reports and critiques of current events relating to life and labor on the border that are written collaboratively by the *promotoras* based on extensive research they conduct in the homes of workers, in the streets of border *colonias*, and even in corporate board meetings. For example, reports have exposed the fact that although real wages have been declining "less severely" for *maquila* workers, the true effect of the decline in real wages is much more severe due to the increase in the cost of the border region's *cesta*, or basket of goods and necessities, which the CFO has diligently documented. The reports also expose maquiladora practices as only workers who experience them could do, such as a two-tiered wage system in which new hires are paid only half of what longer-tenured workers receive, with pressure put on the latter to resign. Workers also document the increasing incidence of maquiladoras relocating further and further into the interior of Mexico, where workers are less educated about their rights than those who have been in contact with the CFO or other groups. Even in the cities where organizing has taken place and improvements in wages, benefits, and safety have been achieved, firms continue to undo that work by implementing protection contracts, a strategy condoned by the Mexican government "in the name of NAFTA" (Comité Fronterizo de Obreras, 2000). As a part of this framing of the problems and challenges that workers face, the CFO actively links the community to the shop floor. For example, problems with wages are understood to

be an affront to providing for one's family, and the CFO's focus on linking these work-related issues to the building of relationships in the community means that organizing can encompass a broad range of neighborhood and regional issues, including health, sexual harassment, and environmental justice (Muñoz, 2008).

Also central to the strategies of the CFO is that the education process around worker rights is intricately linked with the empowerment of women. When I was a member of a solidarity delegation, in which a small group of U.S. residents was hosted by the CFO for three days, the *promotoras* strategically demonstrated this to us in a compelling way. One of the first workers we met, Rosy, who works in an plant that manufactures electrical harnesses for cars, was smiling and playing with her sons as she explained to us the ways she had learned to demand better uniforms, sturdy gloves, and an impressive series of pay raises over the past several years, and how she involved and educated other workers to present their demands more effectively. She talked easily about the ways the plant had changed since more workers had become aware of their rights, especially with regard to the rampant sexual harassment coming from management, and about the fact that this harassment still existed, but had diminished significantly since women had learned to stand up for themselves, bolstered by the confidence of knowing their rights under the law. "Ya me defiendo," said Rosy, "Now I defend myself." The next day we met another worker, Sara, a single mother of three little boys who had only recently come into contact with the CFO. The stress and exhaustion on her face was painful to see. As we sat in her house on the bed she shared with her sons, she ticked off the automotive parts plant's abuses: a reduction in wages, excessive noise and heat exposure, sexual harassment bordering on assault, and a recent requirement to work overtime for regular wages (without a wage premium) in times of speeded up production. With regard to this last point, she glanced at Maria, the *promotora* who was accompanying us, and asked, "Can they do that?" Maria shook her head. "No." We realized we were witnessing the beginning of the process of empowerment of Sara, the point where Rosy must have started years ago.

This remarkable process of women-centered empowerment is central to the CFO's organizing strategy. When asked by a delegation participant about the CFO's greatest achievement, Julia Quiñonez of the CFO replied that the organization's greatest achievement was its ability to "raise consciousness and overcome apathy and defeatism. Without that we can do nothing in the maquiladoras. . . . For example, if a woman is yelled at at work, she can start to learn her rights. . . . She can look her boss in the eye and say 'don't yell at me' and then tell her husband 'don't hit me'" (Rosenberg, 2008).

The ability to witness an organization's process up close is unique to the CFO, which has partnered with Austin Tan Cerca de la Frontera, an Austin, Texas, based nonprofit organization, to host four solidarity delegations per year that travel to the different border cities in which the CFO works. Delegation participants are exposed to an intense experience over just three days, meeting with

CFO *promotoras* and workers in their homes and communities, and touring the enormous and surreal oceans of industrial parks, where workers in uniforms of dozens of colors pour in and out of the stale, lifeless-looking factories. The CFO knows how powerful the experience can be for those that have perhaps thought about *maquiladoras*, but have not seen the struggle up close or heard the actual stories of workers. Towards the end of the time that I and my fellow delegates spent in Mexico, Julia Quiñonez, the tireless, calm, resolute national director of the CFO, gently reminded us to take our time processing our observations and thoughts as we returned home from the trip, knowing full well how simultaneously energizing and draining seeing a struggle up close can be, and knowing that the continued project of increasing the awareness of this struggle in the United States had been furthered.

Another CFO project is its own in-house maquiladora in Piedras Negras, which is currently the only cooperatively managed *maquila* in the border region. The *maquila*, called Dignidad y Justicia (Dignity and Justice), is made up mainly of workers who were fired or laid off by other *maquilas*, and workers organize their own work day and production, earn a living wage, and make decisions in a collaborative, consensus-seeking way. They produce textiles made from organic cotton from both the United States and Mexico, though according to NAFTA rules they are allowed to export only textiles made of U.S. cotton back to the United States. Dignidad y Justicia functions as a living, breathing example of the CFO's commitment to alternatives to the "free trade" doctrine found in NAFTA.

Although the CFO's major focus over the past 30 years of its existence has been worker education, it is currently engaged in a grassroots independent labor organizing campaign. In Ciudad Acuña, a city across from Del Rio, Texas, there are at least 60 plants, yet there have never been any unions at all thanks to a standing bribe to an official labor union boss (Dillon, 2001). Among the top employers in the area with multiple plants are Alcoa, which manufactures electrical harnesses for all auto makers, and Delphi, a subsidiary of General Motors, which produces a range of automotive, audio, and electronics products. In 2000, Julia Quiñonez led a cohort of Alcoa workers to meet with the company's president, whose initial failure to follow through on promises made in that meeting led to walkouts and widespread protests that forced the company to negotiate with workers. Conditions and wages have generally improved, but Quiñonez and the rest of the members of the CFO have long recognized that piecemeal victories, while important, may not be sustainable, as unfair working practices begin to creep back into the workplace over time (Dillon, 2001). The CFO has long recognized this, and it is now actively engaging with change on a more structural level, seeking to end the longstanding union lockout in Ciudad Acuña. Furthermore, the CFO has also kept abreast of political and industry changes: Alcoa's Mexican plants were sold to a private equity firm in 2009 and again in the summer of 2011 to a major Finnish electrical harness manufacturer

(AltAssets, 2011). The full significance of the change in ownership is not yet known. On one hand, the new owners, PKC Group of Finland, are a publicly held company with accountability to shareholders that is presumably more invested in its customer and manufacturing relationships than an investor group. However, the physical distance from Mexico of the Finnish owners and shareholders may hamper the efforts of the CFO and its United Steelworker allies in putting pressure on PKC decision makers, not to mention the lengthy process of researching the company's history and agenda and building a new relationship with company representatives, which has been made all the more difficult through the loss of a key CFO translator, Ricardo Hernandez, who has moved on to other work. Even in light of such industry shifts, however, the CFO is continuing to move forward with a strategy of building key alliances within Mexico and across the U.S.-Mexico border.

One of these key alliances includes an existing independent union in Mexico. The Sindical Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana or the SNTMMSSRM, known as "Los Mineros," is a mine- and metalworkers' union that is known in Mexico as one of the few independent unions that has an established membership and is unwilling to accept a bribe in exchange for scaling down resistance or protests, despite the efforts of the CTM to impose *charro* leadership on the union. Los Mineros have opened a small branch office in Ciudad Acuña, and the CFO *promotoras* are collaborating with SNTMMSSRM organizers on a plant-by-plant affiliation campaign, with the ultimate goal of succeeding in what would essentially amount to an unprecedented independent unionization effort. Currently, organizers from both organizations are going door-to-door to workers' houses, providing intensive education on Mexican labor laws, and gathering signatures of affiliation that would force a union election in many of Acuña's factories, if successful.

Barriers

The political barriers to the independent union movement are immense. In Acuña, the enduring powerful alliance between *maquila* management and the developer-owners of the city's industrial parks, who have family ties to the city's mayor, is formidable, and the affiliation campaign faces a potentially long and arduous uphill battle. Furthermore, the legacy of nearly 80 years of *charrismo* has had a sizable impact on the ways in which many Mexican workers view any type of union, independent or not. CFO organizers have reported strong sentiments of reluctance among many workers, who fear the loss of their jobs and doubt that Los Mineros can protect them. In terms of media coverage, awareness of this type of labor organizing and interest in it is minimal in the United States, despite the proximity of cities like Acuña to the border. Many, if not most U.S. residents do not even know what maquiladoras are, let alone the details of the

semiclandestine campaign to radically restructure the labor relations surrounding them. Even within Mexico, union struggles are usually overlooked in media coverage or distorted. In the early years of the 21st century, the CFO received sporadic coverage in the Mexican progressive newspaper *La Jornada,* but it has struggled to draw national and international attention to its work, even among Mexican Americans with ties to the border region. A recent presentation by Austin Tan Cerca de la Frontera to a group of Mexican American student leaders, in which which I took part, revealed that even those students who had family members working in *maquilas* were largely unaware of maquiladora history, Mexican labor politics, or any major actors in the struggle. However, exposure to a basic overview of these struggles energized the students to action, particularly in terms of bolstering Dignidad y Justicia's apparel business structure and publicity.

The business structure of Dignidad y Justicia, as it stands, is deeply flawed. The *maquila* was organized with the help of an American nonprofit entrepreneur, who arranged for the purchase of sewing equipment for the business that was transferred from the United States to Mexico, thereby fulfilling NAFTA requirements that a *maquila*'s manufacturing capital must be of foreign origin. However, this arrangement has caused the CFO to remain unsustainably indebted to the entrepreneur, who routes apparel orders through a Fair Trade organization that he manages and that currently features an ordering system that is outdated and not particularly user-friendly. For all the potential and energy behind a cooperative maquiladora in which workers can structure their own work, this model cannot be effective without sufficient orders for workers to fill.

Opportunities

The CFO could certainly benefit from a significant restructuring of its business model. While the *promotoras* are effective and innovative locally oriented organizers, assistance from supporters who have skills and experience in business, Web development, Spanish translation, and marketing could fundamentally enhance the way the CFO operates and generates awareness of its cause. The simple act of selling more apparel to more customers can serve a dual purpose: informing U.S. residents about maquiladora struggles while transforming the current latent potential of the Dignidad y Justicia model into a powerful and profitable critique of the dominant maquiladora model on a nationwide and cross-border scale.

The long-term sustainability and success of the Dignidad y Justicia model is also important for publicity purposes. Currently, the publicity strategy on the U.S. side of the border consists of the activities of an informal and eclectic group of mostly middle-aged volunteers who help give sporadic presentations and coordinate the organizing of Austin Tan Cerca de la Frontera's quarterly delegations. Often, after a presentation or delegation, participants will ask, "What can I do?" If the model is improved and made efficient and user-friendly, promoting the

fair trade apparel supplied by Dignidad y Justicia will empower these participants to *do* something concrete for the CFO's work that is simple and effective, and that can spread the sales of the apparel to new customers and niche markets.

Furthermore, on the regional level, if the affiliation campaign is successful or at least partially successful in forcing or even winning a union election, the implications are unknown but potentially very positive for the independent union movement throughout Mexico. Even if the next step, that of forming and signing a collective bargaining contract, is yet another large hurdle to clear, the scale of the campaign could potentially generate a level of awareness and interest that could greatly benefit the CFO and other labor-organizing NGOs in their struggle. The CFO has been effective in achieving powerful success through piecemeal, worker-by-worker strategies, which while noteworthy, are not necessarily news-worthy. A successful affiliation and election campaign, on the other hand, would be highly visible and impactful, and could garner unprecedented press coverage and interest, while establishing the CFO's effectiveness and setting the tone for future negotiations with maquiladora firms.

DISCOURSES OF RESISTANCE

Part of the importance of publicity, marketing, and so forth is the necessity for the CFO and other *maquila*-oriented organizations to have some measure of control over their own representation and discourse of resistance. Since the industry's beginnings, maquiladora workers along with their behaviors, actions, and motivations have been the objects and subjects of intensive research and scrutiny. Through various lenses, the actions and motivations of the CFO and similar organizations can be viewed as forms and strategies of individualized resistance, collective resistance, and/or resistance to work altogether.

Through a Marxist lens, the actions of workers and worker organizations like the CFO can be understood as an overall refusal of work. Devon Peña is the foremost scholar of this particular application of Marx on the border. In particular, Peña's frame of analysis—a strain of Marxism known as Autonomist Marxism, which posits that workers are "self-valorizing" agents that are or should be autonomous of institutional and organizational forms, including unions—relies heavily on ethnography conducted in the 1990s in Ciudad Juárez, and on inter-views with Juana Ortega, a maquiladora activist that Peña encountered during his research. Based on this research, Peña concludes that the labor performed by *maquila* workers is alienating and dehumanizing and, through his interviews with Ortega and other workers, reveals a narrative of escalating resistance.

Peña (1997) adds to the literature's extensive anecdotal and observed mana-gerial strategies of control enacted on the shop floor and in homes through the use of Fordist-Taylorist managerial strategies that seek to maximize production output at all costs through timed studies, surveillance, and the cooptation of selected workers to act as production leads (known pejoratively as *rompecolas*, or

"ass-busters"). According to Peña, worker resistance to these strategies can be modeled, generally, as workers forming friendships, or "informal shop-floor networks of resistance," with these networks engaging in work slowdowns and acts of sabotage that subvert production quotas (*tortuguismo*, or "going at a turtle's pace"), followed by strikes and walkouts that ultimately "circulate" struggle into communities and into other aspects of border life. Within this framework, Peña (1997) points to the role of autonomous organizations such as COMO, the Center for the Orientation of Women Workers, as providing the lynchpin for women's organizing in Juárez. Peña identifies COMO's success in cultivating a strong sense of self-esteem through organizing and education that has taught workers that the "self-management of labor [is] basic to workplace democracy." Furthermore, he recognizes that autonomous organizations like COMO (and the CFO) allow workers to take their representation into their own hands and reclaim discourses of worker subjectivity and political debate on the border. Yet, even while celebrating this, Peña does not relinquish his Marxist framework of escalating, collectivized resistance, which centers on his observations and models of friendship indicators such as conversations and meetings as the major impetus for further escalating actions.

In *Transnational tortillas*, Carolina Muñoz (2008) reports on her ethnographic study of the *maquilas*, noting her own discomfort with the narrative of collective, escalating resistance found in the Marxist-influenced literature that includes Peña's research. Instead, she found that workers were far more likely to engage in small-scale and individualized acts of resistance. Drawing on James C. Scott (1985), she finds his argument that agency can take many forms to be persuasive, pointing out that "when workers lack the ability to resist collectively because repression is too great, they find ways of individually fighting this repression. . . . it is important not to overstate [collective resistance]" (Muñoz, 2008: 157). Muñoz's own observations were that acts of resistance in general were not common, but she noted that when managers overstepped their bounds in terms of production quotas, sexual harassment, and so on, women would act in ways that communicated to the managers that enough was enough; these tactics included taking long bathroom breaks, arriving at work late, or remaining silent when spoken to, though these acts rarely escalated into the scale that the Autonomists imagine.

This account resonates with an event that took place several years ago in Ciudad Acuña, as described to me by Austin Tan Cerca de la Frontera president Judith Rosenberg. Within a plant, a pregnant worker was not provided with the seating and rest accommodations guaranteed under the federal labor law, and one day she miscarried on the shop floor. News of the incident spread rapidly, and in an impassioned show of solidarity, thousands of workers walked out of their place of work. In the aftermath, the company acceded to worker demands to honor the health and safety standards for pregnant women, and most workers returned to the factory—decidedly not engaging in an escalation of resistance, despite the near universality of the original act.

This example demonstrates the cultural importance of such acts within Mexico. Regardless of terminology, women (and men) form friendships on the shop floor and certainly care for and protect each other in numerous cases, whether it involves sabotaging the production line to give coworkers a break, helping others meet their production quota, or standing up for the extremely important cultural value of a healthy pregnancy and childbirth.

In this way, workers have been observed resisting managerial actions large and small, in subtle and also large-scale, highly visible ways. These actions of resistance do not tend to conform to any particular model universally, whether the patterns of actions of workers can be imagined as collective and escalating, or individualized and sporadic, followed by a return to the status quo. The key variable in these struggles appears to be the presence of independent organizations such as the CFO that ground acts and patterns of resistance in a collective memory, history, and imagined future. Without an independent organization, a walkout in response to a tragic miscarriage is just that: a walkout, with a beginning and an end, rather than a chapter in a long-term strategy that is recorded and given meaning. These organizations also provide a space for workers to engage in regional, national, and international dialogue about whom and what they represent and how. For instance, while Peña's interviewees were forthcoming about their engagement in *tortuguismo*, many *promotoras* and workers affiliated with the CFO have rejected work slowdowns and equipment sabotage as legitimate acts of resistance, insisting that such strategies run counter to their commitment to a strong and virtuous work ethic.

Regardless of discursive differences, Peña and Quiñonez agree that self-esteem and the construction of a strong identity are the backbone of maquiladora worker organizing. When Austin Tan Cerca de la Frontera's very first delegation traveled to the border in 1999, a delegation participant asked a *promotora* why she had chosen to be a labor organizer. The *promotora* frowned incredulously, and replied, "¡Soy mexicana y tengo derechos!" ("I'm Mexican. . . . I have rights!"). Culturally, organizers have seen themselves as furthering the legacy of the political underdog found throughout Mexican history, particularly in the Mexican Revolution. The fact that organizations like the CFO are not rejecting the maquiladora but are trying to change it, democratize it, and demonstrate the potential for a cooperatively managed model lends credence to the idea that the pursuit of democracy and rights is at the center of the struggles that circulate on the shop floor and elsewhere, in the home and household, and throughout the border and other Mexican communities. Certainly their example is instructive for other sites of exploitative production in the context of globalized labor struggles, in that while unions in general and independent unions in a context of corrupt unionism are long-held strategies of labor activists around the world, workers and activists should not underestimate the power of autonomous, worker-centered NGOs to hold institutional forms accountable to workers, to exercise creativity and innovation in experimental forms of resistance such as

self-organized cooperatives, and to act as a sustainable base from which workers can operate in the long term if a union campaign should fail.

REFERENCES

AltAssets. 2011. Platinum Equity sells on AEES after two years. Retrieved from www.altassets.net/private-equity-news/article/nz21541.html, June 2011.

Alvarez, R. R. 1995. The Mexican-US border: The making of an anthropology of borderlands. *Annual Review of Anthropology,* 24: 447–470.

Benítez, F. 2002. The agrarian reform in La Laguna. In G. M. Joseph & T. J. Henderson (Eds.), *The Mexico reader: History, culture, politics:* 445–451. Durham, NC: Duke University Press.

Carroll, A. S. 2006. "Accidental allegories" meet "the performative documentary": Boystown, Señorita Extraviada, and the border-brother/maquiladora paradigm. *Journal of Women in Culture and Society,* 31: 357–396.

Carruthers, D. V. 2008. Where local meets global: Environmental justice on the US-Mexico border. In D. V. Carruthers (Ed.), *Environmental justice in Latin America: Problems, promise, and practice:* 137–160. Cambridge, MA: MIT Press.

Comité Fronterizo de Obreras. 2000. Six years of NAFTA: A view from inside the maquiladoras. Retrieved from www.cfomaquiladoras.org/english%20site/seis_tlc.en.html, April 2011.

Dillon, S. 2001. Profits raise pressures on U.S.-owned factories in Mexican border zone. *New York Times,* February 15.

El Paso REDCo. 2011. Labor: Juárez, Mexico. Retrieved from www.elpasoredco.org/regional-data/ciudad-juarez/market-overview/labor, April 2011.

Gruben, W. C., & Kiser, S. L. 2001. NAFTA and maquiladoras: Is the growth connected? Retrieved from http://dallasfed.org/research/border/tbe_gruben.html, May 2011.

Gutiérrez, R. 1996. The erotic zone: Sexual transgression on the U.S.-Mexico border. In A. Gordon & C. Newfield (Eds.), *Mapping multiculturalism:* 253–262. Minneapolis: University of Minnesota Press.

Hale, C. 2006. Activist research v. cultural critique: Indigenous land rights and the contradictions of politically engaged anthropology. *Cultural Anthropology,* 21: 96–120.

Kamel, R., & Hoffman, A. 1999. *The maquiladora reader: Cross-border organizing since NAFTA.* Philadelphia: American Friends Service Committee.

La Botz, D. 1992. *Mask of democracy.* Boston: South End Press.

Langewiesche, W. 2002. The maquiladoras. In G. M. Joseph & T. J. Henderson (Eds.), *The Mexico reader: History, culture, politics:* 698–707. Durham, NC: Duke University Press.

Lugo, A. 2008. *Fragmented lives, assembled parts.* Austin: University of Texas Press.

Marcos, Subcomandante. The long journey from despair to hope. In G. M. Joseph & T. J. Henderson (Eds.), *The Mexico reader: History, culture, politics:* 646–654. Durham, NC: Duke University Press.

Muñoz, C. B. 2008. *Transnational tortillas: Race, gender and shop floor politics in Mexico and the United States.* Ithaca, NY: ILR Press.

Otero, R., & Pagán, J. 2002. Unions and job queueing in Mexico's maquiladoras. *Eastern Economic Journal,* 2: 393–407.

Peña, D. 1997. *The terror of the machine.* Austin, TX: Center for Mexican-American Studies.

Rosenberg, J. 2008. The rise, fall and rise of the maquiladoras—An overview of the industry. Report prepared for Austin Tan Cerca de la Frontera.

Salzinger, L. 2003. *Genders in production.* Berkeley: University of California Press.

Servicio de Administración Tributaria. 2010. Cuadro Histórico de los Salarios Mínimos (1982-2010). Retrieved from http://www.sat.gob.mx/sitio_internet/asistencia_contribuyente/informacion_frecuente/salarios_minimos/45_7369.html, April 2011.

Scott, J. C. 1985. *Weapons of the weak: Everyday forms of peasant resistance.* New Haven, CT: Yale University Press.

Scott, J. C. 1998. *Seeing like a state: How certain schemes to improve the human condition have failed.* New Haven, CT: Yale University Press.

Sklair, L. 1993. *Assembling for development.* San Diego: Center for US-Mexican Studies.

Wilson, P. 1994. *Exports and local development: Mexico's new maquiladoras.* Austin: University of Texas Press.

Wright, M. 2006. Public women, profit, and femicide in northern Mexico. *South Atlantic Quarterly,* 105: 681–698.

Direct reprint requests to:

Heather Frambach
c/o Phillip Salazar
School of Architecture
The University of Texas at Austin
1 University Station B7500
Austin, TX 78712
e-mail: h.nietoframbach@gmail.com

COLLECTIVE BARGAINING FOR STREET VENDORS IN MUMBAI: TOWARD PROMOTION OF SOCIAL DIALOGUE

DEBDULAL SAHA

Tata Institute of Social Sciences

ABSTRACT

This study is an attempt to understand the role of the collective bargaining process in promoting social dialogue among the street vendors in Mumbai. The street vendors in Mumbai are one of the most deprived sections of the urban working poor, and their deprivation results from their low bargaining power. The ILO has recognized the importance of collective bargaining and the promotion of social dialogue to meet the common demands of workers, and so has included the collective bargaining process in its decent work agenda. Collective bargaining is an end in itself as well as a means of achieving other ends. It promotes the right of workers to decent working conditions. This study reveals that the rate of unionization among vendors in Mumbai is low. The heterogeneous nature of street vending activity further retards the unionization process. Further, the study reveals that several membership-based organizations are working actively toward the provision of social security for vendors in addition to the provision of formal credit through a cooperative credit society. These organizations are most active in securing the vendors' rights to public space utilization. Thus the organizations are promoting the social dialogue process by mobilizing the vendors toward realizing their rights at work.

INTRODUCTION

Street vending is one of the most visible and important sustainable occupations in the urban informal sector in India. Street vendors are identified as self-employed workers in the informal sector who offer their labor to sell goods and services on

445

the street without having any permanent built-up structure (National Policy on Urban Street Vendors [NPUSV], 2006). They play a very dynamic role in the urban economy, providing items needed by average-income-earning households at cheap and affordable prices; many of these items are durable and cost effective in the best possible way. In addition to that, street vendors help many small-scale industries to flourish by marketing the products they manufacture (Bhowmik, 2001; Tiwari, 2000). Thus they help to sustain the urban economy to a great extent in terms of employment, income, and services to others. It has been estimated that around 30% of the members of the Mumbai workforce buy at least one meal a day from vendors (Bhowmik, 2001). Thus, it can be said that vendors are in fact a solution to some of the problems of poverty-stricken urban dwellers. It is computed from the Mumbai Human Development Report (MHDR) in 2009 that the total employment figure in Mumbai is 5.3 million (MHDR, 2009). It is calculated that the total employment figure in the informal sector is 4.3 million. The number of self-employed workers engaged in Mumbai is 2.0 million, comprising 37.0% of the total number of people employed (MHDR, 2009). According to the Government of India, there are around 10 million vendors in India, of whom around 250,000 are in Mumbai (NPUSV, 2006). Thus, 12.5% of the total self-employed population in the city are dependent for their livelihood on street vending.

Decent Work and the Collective Bargaining Process

The concept of "decent work" was introduced by the International Labour Organization (ILO) in 1999 in a report by its director-general to the 87th International Labour Conference. The main goal is to promote "opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity" (ILO, 1999: 3). The four major pillars recommended by the ILO (1999) as essential to achieving the goal of decent work are opportunities for employment and income, respect for rights at work, social protection, and a strong social dialogue. Taking these four aims into consideration, the ILO has defined decent work as

> productive work in which rights are protected, which generates an adequate income, with adequate social protection. It also means sufficient work, in the sense that all should have full access to income-earning opportunities. . . . Tripartism and social dialogue are both objectives in their own right, guaranteeing participation and democratic process, and a means of achieving all the other strategic objectives of the ILO. (ILO, 1999: 12)

The right to collective bargaining is central to the ILO's concept of decent work and is an indispensable part of democratic procedures (ILO, 2007). Realizing the impact of freedom of association and the right to collective bargaining upon improving the plight of both formal and informal workers throughout the world, the ILO has made the right to freedom of association and collective

bargaining a very important part of its decent work agenda. The declaration concerning the aims and principles of the ILO, called the "Declaration of Philadelphia," which has been added to the Constitution of the ILO, reaffirms that freedom of association is essential to sustained progress (Gopalakrishnan, 2007). The fundamental right to a livelihood is actually promoted by this right. It promotes the right to work with the right to bargain against exploitation. The Preamble to the Constitution of the ILO states that recognizing freedom of association among workers will not only lead to their overall welfare but will also promote lasting peace among nations all over the world.

Collective bargaining is promoted by membership-based organizations (MBOs). These can be defined as "those in which the members elect their leaders and which operate on democratic principles that hold the elected officers accountable to the general membership" (Chen et al., 2007: 4). Trade unions, cooperatives, workers' committees, savings and credit groups such as Self Help Groups (SHGs), producer groups, and so on are categorized as MBOs (Chen et al., 2007).

Dasgupta (2002) argues that globalization will intensify the vulnerability of informal workers in the coming years. Unionization is perhaps the most effective way to guard against this increased vulnerability. There are various other benefits of organizing informal workers. It enables people to raise their voices against what is wrong, assembles both financial and emotional resources, empowers workers politically and economically, and, finally, gives them representation security so that they can express their views about their work and working conditions and they are enabled to bargain over their rights at work. Representation security is a basic security for those who fall between the cracks of the adequate social protection coverage given by state-governed regulations relating to rights and benefits at work. Unions and other member-based organizations have a positive impact on vendors' income and working conditions by empowering them through strong social dialogue. These unions are mainly localized bodies. Vendors organize themselves into unions or local associations that enable them to continue their economic activities. The main role of these organizations is to negotiate with local authorities such as the officials of municipal corporations and the police when the vendors are threatened by them. A previous study (Bhowmik, 2001) of street vendors in Ahmedabad, Bangalore, Delhi, Imphal, Kolkata, Mumbai, and Patna showed that fewer than 20% of street vendors are unionized in major cities in India, but, interestingly, it is noted that in Ahmedabad 40% of street vendors are unionized under the Self Employed Women's Association (SEWA). Competition among street vendors has appeared in India due to the inadequate number of unions/associations for street vendors and the inactivity of unions or associations (Bhowmik, 2006).

Problems Involved in Collective Bargaining for Informal Sector Workers

Representation is low in India because it is harder to organize informal-sector workers under one banner than it is to organize formal-sector workers. Traditional

unions in India have not been able to address the needs of informal workers. This is because their primary focus has been on the employer-employee relationship encountered mostly in the wage and salary area. But informal work has the following peculiar characteristics that make unionization even more difficult in reality. First, there is no employer-employee relationship, giving rise to confusion regarding the identification of the parties involved in the bargaining process. Second, the self-employed section is extremely heterogeneous in character. Vendors fall into many categories, whereas the degree of associability is higher among homogeneous groups of workers. Third, self-employed workers are so spread out and dispersed that organizing them under one strong head becomes difficult. Moreover, we find vendors from varied ethnic backgrounds, which retards group cohesion in some ways. Moreover, Carr, Chen, and Jhabvala (1996) observe that organizations that provide a common platform for men and women have not been very successful. This is because the issues of women are very different from those of men. In a society like India, which is conservative and in which women's participation in work outside the home is not given due recognition, a common platform will debar women from active participation and make them passive listeners, and thus their empowerment will not be achieved.

In short, collective bargaining is substantially reduced by a growing informal economy characterized by a decent work deficit (ILO, 2007). However, the informal economy presents both a barrier and an opportunity to the promotion of the collective bargaining process. The NPUSV in 2006 and its revised version in 2009 suggested that associations should come forward to organize workers in the informal economy (NPUSV, 2006, 2009). The National Alliance for Street Vendors of India (NASVI), SEWA, and Manushi are successful membership-based organizations, and they have been working effectively to initiate policy dialogues at the national and local levels. But successful organizing depends on added research; Bhowmik (2007: 98) stated that "more research [is] required regarding the issues related to unionization of street vendors." Therefore, this study tries to explore the role of associations, trade unions, and other member-based organizations in improving the working conditions of vendors in Mumbai.

The present article is organized as follows. The background to the study and the research objectives are discussed in the introductory section. The methodology of the study is explained in the second section. The present scenario and the extent of unionization among vendors are discussed in the third section. The role of membership-based organizations is stressed in the fourth section. The of social networks is an important aspect in collective bargaining, which is explained in the fifth section. A step [QA: Please reword sentence] toward organizing vendors is discussed in the sixth section of the article. The final section includes a summary, concluding remarks, and policy recommendations.

METHODOLOGY

This study is multi-stakeholder in approach. The primary stakeholders are the individual street vendors in Mumbai. Mumbai was selected because of its diversity in terms of ethnicity and economic activities. Static vendors, who have a specific space for their activity (though the space is not officially recognized by the government) are the main participants in the present research. As membership-based organizations have an important role in collective bargaining, active union members from two unions have also been considered in the study.

Four hundred sample respondents were drawn from four areas, namely, Chembur, Dadar, Kandivali, and Vile Parle, which were chosen because some of the active unions are found there. The study dealt with only seven types of vendors, those selling cooked food, vegetables, vendors, garments, electronics, household utensils, and leather items. These seven types were chosen because they are the most visible in this retail market and have a large share of the total vending process. In addition, union membership has been noted among these seven types of vendors. A survey was conducted from December 2008 to June 2010.

In-depth interviews were also conducted with 10 key respondents from two unions. These unions are basically membership-bssed organizations (MBOs) and they actively work in various places across Mumbai. These 10 key respondents were actively involved in their respective unions, and they provided information on the role of these organizations with regard to collective action by street vendors in Mumbai. Such organizations are also in a position to make decisions for street vendors and represent them to higher authorities.

The key respondents were reluctant to disclose their names and information about their organizations, so we are unable to mention their names or any other information. Neither their names nor their physical descriptions are revealed anywhere in the article. Nevertheless, we do mention their positions in their organizations and other important aspects from an organizational perspective. This will help us to understand the work they do to promote collective bargaining.

A semistructured questionnaire, based on the objectives of the study, was used (Bryman, 2009). Both closed- and open-ended questions were included in the questionnaire. Since the study was exploratory in nature, open-ended questions were used to assist in exploring the current situation. Personal interviews and group interviews were conducted. One group session was conducted with 5–7 vendors in each study area to achieve an understanding of common issues. In-depth interviews were conducted with 10 individual street vendors in order to understand and explore the current situation of their collective bargaining situation.

PRESENT SCENARIO AND EXTENT OF UNIONIZATION AMONG VENDORS

In this study, the focus is on the role of the social dialogue process and its component, the collective bargaining process. The roles played by collective

bargaining and its channels have been illustrated through case studies. This study is based on in-depth interviews with 10 individuals who are actively involved in MBOs and in a position to make decisions for the vendors. They are vendors themselves and presently working toward mobilizing the street vendors. The key respondents, who were working as small vendors initially, have become small enterprise owners over a period of time and have employed a number of wage workers to carry out administrative work and other responsibilities in their respective businesses. Thus they have acquired social empowerment in the process of mobilizing other vendors in an organized struggle for the common cause. According to them, it is very easy to work for the vendors as insiders. As they say, being insiders achieves many objectives. Only insiders can understand the problems associated with being vendors and work toward their eradication. On the other hand, the vendors can directly associate themselves with the insiders who work with them. As one of the key respondents stated, "our friends [the vendors] rely on and trust us because they think that we can understand the situation and represent their voice properly." This study also highlights the role of MBOs with regard to social security, access to finance, and other issues, in order to evaluate the potential of collective action for improving the decency of work. Collective action facilitates the decent work indicators of social dialogue.

Coverage

In Table 1, the extent of unionization is shown. Out of those sampled, 204 street vendors are registered with different trade unions. The table shows that more than 50% are members of trade unions. In particular, 53% of male and about 48% of female street vendors are members of trade unions, which looks impressive. However, during in-depth discussions with the street vendors, it was revealed that only 47 street vendors out of 400 are actively involved with union, that is, around 0.12% of the total sample population. These 47 street vendors (among 400 street vendors) are actually regular in attending meetings and organizing themselves, and they are even trying to mobilize other street vendors. Some street vendors reported that membership of trade unions makes

Table 1. Union Participation and Gender-Wise Cross Tabulation

	Gender		Total
	Female	Male	
Not a union member	85 (51.8)	111 (47.0)	196 (49.0)
Union member	79 (48.2)	125 (53.0)	204 (51.0)
Total	164 (100.0)	236 (100.0)	400 (100.0)

them feel "empowered." However; some of them also expressed the opinion that it is a waste of time to attend regular weekly and monthly meetings. The union members' union activities often interfere with their work, and many think that if this time were devoted to vending activities, at least it would provide them with some income.

Hence we can say that union participation is mostly "a pen and paper" affair. The rate of active participation is much lower. Here, less than 1% of the total vendors are active union members. The low level of unionization is responsible for widespread harassment in the form of "rent seeking" or bribe collection (Bhowmik, 2007). In the study it was found that the vendors pay 5–10% of their daily income in bribes. There is a feeling widely prevalent among vendors that it is better to pay bribes than to join a union to fight against the people who force them to pay the bribes (Bhowmik, 2007). The reason may be that vendors consider themselves incapable of fighting against the authorities who demand the bribes.

The rate of unionization among females is lower than among males. However, in some other cities like Ahmedabad, female vendors have been more success-fully unionized, mainly under SEWA. Trade unions or other membership-based organizations stage protests against civic authorities whenever the authorities do something that goes against the interests of the street vendors. They do not refrain from going to jail, and in any case, they obtain stay-orders from the court to temporarily stop such moves being made by the civic authorities (Bhowmik, 2003).

ROLES OF MEMBERSHIP-BASED ORGANIZATIONS

Toward Credit Accessibility for Street Vendors

Vendors in Mumbai are grossly exploited by moneylenders and wholesalers who charge exorbitant rates of interest on the money they lend (Saha, 2010). As a result they fall into multiple debt-traps (ibid). In the sample, it was also found that the overwhelming majority of the vendors obtain credit from informal sources and pay out a large part of their incomes in interest payments. Interestingly, a fraction avails itself of formal credit organized by the trade unions through a registered cooperative credit society operating in the areas (especially in Kandivali and Vile Parle) and giving group loans at very low rates of interest to member-vendors who approach the society through the unions. Union membership is vital, as it is the union that stands as a guarantor for the vendors for the loan.

In the present study, vendors are accessing credit from informal sources and are paying high rates of interest (amounting 5-10% per month) on the borrowed sums. The monthly average interest paid greatly exceeds that of the monthly average amount borrowed. On average, vendors are required to pay three times the principal as interest. This results in a perpetual debt trap situation.

Vendors themselves, with very limited knowledge of arithmetic, are cheated by moneylenders and end up paying interest continuously. Many vendors depend upon informal sources of credit, about 57% of vendors upon moneylenders and 26% upon wholesalers. Female vendors depend on moneylenders and wholesalers more than males do. About 64% female vendors and 53% of male vendors depend on moneylenders. However, women are much more prone to exploitation than men, and their vulnerability to threats of evictions is much greater than that of men. However, some unions are also organizing SHGs to provide low cost credit to vendors. The lack of general awareness of the benefits of this and the aversion of some vendors to joining such organizations leads to further exploitation at the hands of moneylenders. The unions also help in organizing social security for the vendors, even including the provision of micro insurance services. Unions organize vendors as a powerful force so that they may participate in decision-making bodies and formulate policies that affect their interests (Bhowmik, 2005). The case of one union in Kandivali can be highlighted with regard to the provision of accessible credit to its members.

The Case of the Trade Union in Kandivali: Toward Credit Accessibility

A cooperative credit society has been registered under the state government to provide loans such as personal loans, educational loans, and loans for economic activity, and the cooperative receives the money for these from the state government. The cooperative gives loans to membership-based organizations. A cooperative cannot provide a direct loan to an individual vendor. This is primarily because the vendors cannot provide any collateral for the loan amount. Hence, membership-based organizations act as intermediaries between street vendors and the cooperative. Vendors must be members of an organization to obtain benefits from the cooperative. According to the rules and norms, a vendor can acquire a maximum of Rs.30,000 as a loan from the cooperative. Each vendor in the organization gives money to the organization according to the vendor's volume of trade (at a minimum of Rs.10 per day) and the organization thus accumulates money that is used as "working capital." The vendor can then take a loan from the accumulated funds at a nominal rate of interest.

This process has been illustrated by the case of a vendor in Kandivali, whom we came across during the field visits. The vendor had taken a loan from the cooperative through the union in order to buy a cart:

> I used to work as a wage worker and my employer used to torture me day in and day out; finally I decided to become a street food vendor and buy a cart. I had approached several organizations for lending me the money to buy a cart for myself. I soon came in touch with the union [name withheld on request] and they said they would help me to get the loan through them. I readily became their member and got the loan of Rs.10,000. Their working

> capital requirement is not a huge amount. Rather, it is far less than the benefits that have accrued from it. The interest rate is also low. The membership norms are very suitable for people like me who do not have any other collateral to offer. I get a lot of mental support from the union members. Being a part of the trade, they understand our problems, much to our relief. I feel more vendors like me should join if they want formal low cost loans.

According to the 10 key respondents from the two membership-based organizations, this type of cooperative is very successful in giving low cost credit to the vendors, and the repayment rate is also high. But despite good work done by the cooperative, the take-up rate is small. This is due to the low rate of active unionization. According to one of the active union members, around 2,500 vendors are involved in such cooperative and social security schemes in Mumbai, while Mumbai has 250,000 street vendors according to the records of most of the unions. Failure to register themselves with the unions debars vendors from obtaining the benefits of formal credit availability. The key respondents reported that the vendors decline to adhere to the rules and norms of their organizations. They do not even want to pay the nominal membership fee. Thus they are unable to reap the benefits. One of the key respondents stated that "most of the vendors try to avoid all the rules and norms and hence they prefer private moneylenders at a high rate of interest."

Organizing Social Security

The need for social security cannot be ignored. In the study, it was found that vendors need credit for various purposes, among which social security requirements are one of the most important. In the study it was found that the unions provide social security to their vendors through the Janashree Bima Yojana (JBY) under the group insurance scheme of the Life Insurance Corporation of India (LICI).

The scheme includes insurance coverage for health issues, house and property, accidental and natural death, and permanent and partial disability. It is a group insurance scheme, which needs a minimum of 25 members. Members pay an annual premium. The annual premium for an individual vendor is Rs.169, which is very affordable, even for the poorest. Under this scheme, each vendor can receive Rs.15,000 to 75,000 in the case of an accident, and the vendor's family will receive Rs.75,000 after his/her death. Moreover, this scheme covers scholarships for the education of the vendor's children. A maximum of two children of the vendor can benefit, and each child can receive Rs.1,200 per year as a scholarship. One organization has even helped to arrange money for a vendor's son to pursue higher studies.

The following case history illustrates how one vendor in Vile Parle, one of the study areas has benefited from the micro insurance service of the JBY:

> I used to work as a garment vendor. One day, while at work I met with a road accident due to which I had to undergo an operation. The cost involved was around Rs.30,000 plus the cost of medicines and other things. It would have been extremely difficult if I was not insured with the group insurance scheme of JBY. I got the money without much trouble. The operation was successful and I was soon able to get back to work. I feel the union has done a commendable job by organizing us, the vendors, to join it and avail ourselves of the facilities of the JBY. The annual premium amount is very little. More vendors should use the facilities because the vendors do not have anybody else to turn to if they get into some unforeseen circumstances.

But some of the vendors have also complained about the compulsory premium, the sum of Rs.169 yearly. They say this imposes a burden on them. It is not a money back policy, and they argue that "the money is lost if we do not fall sick."

Collective Bargaining and Public Space Utilization

Street vendors in Mumbai are continuously harassed by local police and the Bombay Municipal Corporation (BMC), since street vending is considered an illegal activity. Unions act as intermediaries between individual street traders and the local authorities, negotiating with authorities such as municipal corporations and local police forces for the right to occupy public space so that the vendors can carry on their trade.

Struggles and collisions between civic authorities and union leaders erupt very frequently. A common story in Mumbai is that at the slightest pretext, local police catch vendors and throw them into jail for occupying public space. One incident was encountered during the field visit to Kandivali. An eviction drive was taking place in mid-September in this area in the year 2008. The eviction was being carried out because the vendors were occupying private land that had been taken over by a well-known building company in order to build a new market complex, not because the vendors were occupying public pavements. A clash between the union members and the local police in Kandivali broke out at around 11 in the morning. Finally, police arrested around 30 street vendors from that particular place, including both males and females. The union leader (from one of the active vendors' unions) started negotiating with the local police officer at the police station. The charge was occupying a public place. The police argued that the vendors should, without saying a word, vacate the area because it simply did not belong to them. The police officer was finally ready to release each vendor, on payment of Rs.1,250 for each vendor. A receipt was given for the amount that was paid. Out of the 30 street vendors, around 20 could pay Rs.1,250. The other 10 street vendors could not pay; the money for their release (Rs.12,500) was finally paid by the union leader from the union funds. The leader mentioned that this kind of incident happens almost every month.

A section of the urban upper middle class maintains a very negative stance against the hawkers and their trade. They, with the help of their social status and

strong lobby, force the civic authorities to evict the vendors from public places because the vendors and their trade cause irritation in the form of traffic congestion and visual pollution. The Non-governmental organizations (NGOs) representing the rich and upper-middle class citizens in Mumbai make use of their high social and economic status to influence public policies in their favour and prevent legalization of vending and vendors' utilization of public space (Bhowmik, 2007). The formation of vendors' unions is especially vital in these cases, when their trade is despised by the very people who often buy their low cost products. The unions organize the vendors to protest against evacuations in the name of modernization.

Several trade unions, like the one described above, are involved in pitched battles with the police and the BMC officials whenever they try to evict the vendors. A key respondent, aged 44 years, an individual from Kandivali who represents a member of membership-based organization, argues that there is a pressing need for the street vendors to unite and fight for their common demands. According to this respondent, if the government cannot provide sufficient job opportunities in the formal sector, it should at least provide for some genuine needs like the provision of spaces in which vendors can carry out their business activities. As this respondent notes, the local authorities are continuously harassing the vendors and they are becoming victims of notorious activities. It is exceedingly difficult for these already impoverished persons to continue with their business activities under these hostile circumstances, and the government urgently needs to look into the matter. This respondent's organization in Kandivali is willing to go to any lengths to achieve the goals of the vendors.

As respondent says,

> We are struggling for the rights for them [the vendors] and for their space
> on the road. We protest [against the authorities'] continuous harassment.
> Many times, we went [to] jail with the vendors to protest.

The most common form of harassment is the demand for bribes. The vendors' rights at work are violated when they can carry on their trade only by paying bribes to municipal authorities and police and local leaders in some places because they are dubbed "illegal." Bribes eat away 5–10% of their daily incomes, with the total daily amount varying between Rs.20 and Rs.50. They are forced to pay bribes to three different groups of people which include the police, the officials of the BMC, and local leaders. Many vendors operating in Dadar area reported about certain 'agents' of the police and the BMC who collect bribes from vendors in their locality. Though they declined to give any personal identification of the agents, they said that these persons are vendors in their locality who work as intermediaries between the vendors and the BMC officials and the police. It facilitates the process of rent -seeking or bribe collection. The amount of bribe collected by them is given to the two groups, after keeping aside a certain sum as 'commission.' However the exact percentage kept with them as their commission

could not be known from the vendors. So these 'agents' can be said to be another 'instrument' of harassment. The 'agents' normally collect the bribe amount by force against the promise that police and BMC will not approach them anymore. Those who decline to pay the amount, has to face much more harassments from the police and BMC.

The average monthly amount of money paid in bribes by each individual to the police is Rs.256, while that paid to the BMC is Rs.386. Hence the average total amount in bribes paid to the BMC is even larger than the amount paid to police. The members of a third group, namely, local leaders, collect money in their respective areas from the vendors; they then distribute this to the local police and the BMC, while keeping 5% of the total amount they have collected.

Managing Competition

Finally, unions help to reduce cutthroat competition. Competition among street vendors has appeared in India due to the inadequate number of unions/associations for street vendors and the inactivity of unions and associations (Bhowmik, 2006). Trade unions help to regulate the number of vendors by restricting their entry to the profession. This is done in a very constructive way, however. The union in Kandivali (one of the selected study areas in Mumbai) presents an example in this regard. The union, through its credit and social security programs, encourages the children of the member-vendors to study and find formal sector jobs for themselves or secure positions in licensed trades for themselves so that they do not have to depend on street vending. In this way, they encourage upward mobility and also restrict the number of vendors. Interestingly, all key respondents noted that limiting the number of street vendors will solve many problems. It will be easier for the government to issue licenses if there are fewer vendors and they are regularized. The relationship among vendors themselves can also be regulated. One of the key respondents in Dadar reported on the rise in the occurrence of internal troubles among vendors due to ever-increasing competition and the limited public space in which they can operate. The relationship of competition must be replaced with one of cooperation, in which the vendors should join hands with each other to fight for their common demands. If this is done, the authorities will have to listen to them. This can be brought about by the unions, by bringing the vendors under one banner and organizing them for the common cause.

Along with this, there is also the need to encourage self-regulation and self-compliance among vendors. Vendors must realize that it is their duty to keep the city clean and also to see that the products they sell are in no way harmful or toxic and conform to minimum standards of hygiene. The role of unions becomes important here, to make the vendors realize this and to organize their activities accordingly. As Bhowmik (2005) stated, their duties and responsibilities must precede their demands for rights. The unions can make vendors

aware of their duties in respect of cleanliness, hygiene, and the safety of their products, and help them to set in place among themselves some common rules of conduct.

ROLE OF SOCIAL NETWORKS IN COLLECTIVE BARGAINING

Social networks play a decisive role in the formation and working of trade unions. People of the same ethnic or religious community normally have a closer degree of associability and affinity with their counterparts in rural or semiurban areas. Whenever a new vendor enters the market, he or she is always pulled toward the group composed of those belonging to his/her own place. In addition, whenever people of the same cultural background join hands to make common demands, the collective bargaining process becomes stronger. Social networks both encourage and impede the collective bargaining process. They encourage the process when members are drawn toward their friends and partners from their own ethnic and rural backgrounds and the association becomes stronger. They impede the process when the vendors are composed of people of heterogeneous ethnic backgrounds and languages (among other things) and this becomes a barrier to group cohesion and unity. It is not easy to overcome these differences to fight for a common cause. However, this problem arises mainly when the major part of the vendor population has migrated comparatively recently. In the sample, the average length of time since migration being around 26 years, this problem does not hold much relevance. Moreover, the average time of being in business is 22 years, which means that vendors have had the time to form strong bonds of friendship and trust with each other, and they work together at times of crisis. This promotes unification among vendors.

ORGANIZING VENDORS: A STEP TOWARD A SOLUTION

Efforts at organizing the vendors are clearly outlined in the national policy on vendors (NPUSV, 2006, 2009). The policy suggests that town vending committees (TVCs) should be made responsible for the allocation of space to street vendors. The functions of the TVCs recommended by the national policy are as follows: registering the street vendors and issuing an identity card to each vendor after it has been prepared by the municipal authority; monitoring the facilities to be provided to the street vendors by the municipal authority; identifying vending as well as no-vending areas; setting the rules and regulations for carrying on the vending activity; taking corrective action against erring vendors; and collecting revenue. The fees should be nominal or at least affordable for all street vendors. The committees may decide the amount the street vendors will be charged, taking local conditions into consideration. Considering the functions

of the TVCs recommended by the national policy, it could be said that TVCs would be a good solution to organizing the vendors at the local level.

Street vendors would prefer to pay fees legally to the government instead of paying bribes to the local police and the municipal corporation. One of the vendors stated that "we would like to pay the amount as taxes instead of bribes for our . . . space. We would even love to pay double the amount that we are paying now." A trade union activist (name withheld) made an important point. He said that the bribes that most vendors pay are completely unaccounted-for money. The BMC and the police who collect this money do not turn it over to the government. Rather it goes in to the pockets of the officials involved. According to Bhowmik (2010), a sum of nearly Rs.40 million per year is collected from vendors jointly by the police and the BMC. Legalizing the vendors would mean the loss of this sum to the corrupt officials. But bribes can be avoided, and both parties involved, that is, the government and the vendors, can benefit. If the government issues business licenses to the vendors and legalizes their trade, they will be ready to pay some amount directly to the government in tax, instead of paying bribes. The government will be able to increase its revenue, and the street vendors will also benefit from the legalization, which will solve many of their problems including formal credit supply.

CONCLUSION

The study has highlighted many aspects of the collective bargaining process. Collective bargaining is an end in itself and also a means to other ends. It plays a major role in uniting vendors to fight against exploitation and also to secure their rights. Its far-reaching impact on the lives of workers has compelled the ILO to adopt it as a fundamental right of workers all over the world. There are several active unions and associations in the field sites of this study who are doing the job of mobilizing vendors and organizing collective protests against the civic authorities. The vendors in Mumbai constitute one of the most vulnerable and miserable sections of the urban working poor. They earn their livelihood in hostile circumstances, and face daily impositions from all quarters: the civic authorities, the police, the citizens' groups, the local leaders, and the money-lenders. It is only through the joining of hands that they can exert themselves and realize their demands. The low rate of active union membership outlines the fact that awareness among vendors of their rights and responsibilities is generally lacking. Intermediaries take advantage of the looseness of association among the vendors and exploit this to the maximum capacity.

It is very important to highlight here that the NPUSV stresses the development of this unification process. It says that the formation of unions will lead to vendors' social empowerment (NPUSV, 2006, 2009). A general lack of awareness is found among the vendors regarding their contributions to society and the overall nature of their activities. Almost 70% of the vendors in the study said that they suffer from threats of evictions, and actual evictions have occurred up

to three times per year. During police raids, vendors' goods are confiscated and almost 70% of vendors reported that they do not get back their goods, or if they get them back, they are damaged or destroyed. They regard these atrocities inflicted upon them as part of a general way of life with which their business activities have to coexist. Their lack of effective unionization makes them even more vulnerable to exploitation, since it becomes easier for the authorities to evict them if they are dispersed. A study carried out by Bhowmik (2005) stated that unionization will provide them with a platform on which they can unite to express their demands and press for their rights.

Given the importance of street vendors in the urban informal sector, some non-governmental organizations, cooperatives, and other groups are coming forward with initiatives for providing social security and many other basic requirements for street vendors, but these initiatives are few and far between. In view of the present economic situation, especially given the financial crisis and the large number of formal-sector jobs that have been lost, the informal sector will expand further in the years to come. Since street vending is one of the easiest ways in which to get into the urban informal sector, the number of street vendors is very likely to increase drastically in the near future. One of the major findings of this study is that in places where trade unions are performing efficiently and effectively, street vendors are found to be in a somewhat better position. Thus, trade unions or other MBOs could be the best way to organize them. Vendors can achieve a reasonably decent working life or at least a better working environment with the help of trade unions.

ACKNOWLEDGMENTS

REFERENCES

Bhowmik, S. 2001. Hawkers in the urban informal sector: A study of street vendors in seven cities. Retrieved from http://www.karmayog.com/hawkers/hawkersnasvi.htm, March 2010.

Bhowmik, S. 2003. Urban responses to street trading: India. Presented at the Urban Research Symposium on Urban Development for Economic Growth and Poverty Reduction, World Bank, Washington, D.C.

Bhowmik, S. 2005. Street vendors in Asia: A review. *Economic and Political Weekly,* May 28–June 4: 2256–2264.

Bhowmik, S. 2006. Social security for street vendors. *Seminar,* 568 (December): 49–57.

Bhowmik, S. 2007. Street vendors in urban India: The struggle for recognition. In A. Morales & J. Cross (Eds.), *Street entrepreneurs: People, place and politics:* 92–107. New York: Routledge.

Bhowmik, S. (2010. Legal protection for street vendors. *Economic and Political Weekly,* 45 (51): 12–15.

Bryman, A. 2009. *Social research methods* (3rd ed.). Oxford: Oxford University Press.

Carr, M., Chen, M., & Jhabvala, R. 1996. Introduction. In M. Carr, M. Chen, & R. Jhabvala (Eds.), *Speaking out: Women's economic empowerment in South Asia:* 1–19. New Delhi: Sage Publications.

Chen, M., Jhabvala, R., Kanbur, R., & Richards, C. 2007. Membership-based organizations of the poor. In M. Chen, R. Jhabvala, R. Kanbur, & C. Richards (Eds.), *Membership-based organizations of the poor:* 3–20. New York: Routledge.

Dasgupta, S. 2002. Organizing for socio-economic security in India. International Labour Organization, Geneva, October 2002. Retrieved from http://www.ilo.org/public/english/protection/ses/download/docs/india_sukti.pdf, October 2011.

Gopalakrishnan, R. 2007. Freedom of association and collective bargaining in export processing zones: Role of the ILO supervisory mechanisms. Working Paper 1, International Labour Organization, Geneva. Retrieved from http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_087917.pdf, November 2011.

International Labour Organization (ILO). 1999. Report of the director-general: Decent work. 87th Convention, International Labour Organization, Geneva. Retrieved from http://ilo.org/public/english/standards/relm/ilc/ilc87/rep-i.htm, November 2011.

International Labour Organization (ILO). 2007. Collective bargaining and the Decent Work Agenda. Committee on Employment and Social Policy, Governing Body, 300/ESP/1, 300th Session, International Labour Organization, Geneva. Retrieved from http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_084557.pdf, November 2011.

Mumbai Human Development Report (MHDR). 2009. Retrieved from http://hdr.undp.org/en/reports/nationalreports/asiathepacific/india/Mumbai_2009_NHDR_EN.pdf, September 2011.

National Policy on Urban Street Vendors (NPUSV). 2006. Retrieved from http://nceuis.nic.in/Street%20Vendors%20policy.pdf, March 2010.

National Policy on Urban Street Vendors (NPUSV). 2009. Retrieved from http://mhupa.gov.in/w_new/StreetPolicy09.pdf, March 2010.

Saha, D. 2010. Decent work for the street vendors in Mumbai, India—A distant vision! *Journal of Workplace Rights,* 14 (2): 229–250.

Tiwari, G. 2000. Encroachers or services providers? *Seminar,* 491 (June): 26–31.

Direct reprint requests to:

Debdulal Saha
Tata Institute of Social Sciences
V. N. Purav Marg, Deonar
Mumbai 400088 India
e-mail: debdulals@gmail.com

FAIR TRADE AND THE DOUBLE MOVEMENT: THE PROMISE AND CONTRADICTIONS OF IMPROVING LABOR STANDARDS IN THE GLOBAL SOUTH VIA MARKET MECHANISMS*

KRISTEN SHORETTE
University of California, Irvine

ABSTRACT

I examine Fair Trade (FT) as a social movement that emerges as a regulative force in response to the rise of neoliberalism. I apply Polanyi's (1944, 1957) classic concepts of embeddedness and the double movement to understand the conflict that arises within a coherently motivated social movement. Using interview and participant observation data along with content analysis of FT organization mission statements, this research examines the role of conflict within the FT movement over how best to improve the well-being of producers in the global South. I discuss the different, conflicting ways in which FT participants think about improving labor conditions in the global South and the inherent conflict in using market mechanisms to counter market forces. I conclude that while participants share the values of human rights, equality, and environmentalism, realizing these goals through concrete market activities reveals the tension between the benefits of liberalizing and the benefits of regulating the production and sale of FT goods that may impede the continued growth of the movement.

461

International commodity trade, under the rubric of "free trade," has been identified as a source of vast inequalities within the international system, where underdevelopment generally persists in peripheral states. Fair Trade (FT) initiatives emerged in the mid-20th century with the objective of improving the social, environmental, and economic conditions in the global South through market mechanisms. Either through direct sales networks or voluntary certifications, FT practitioners aim to regulate the market from within. FT has grown exponentially over the past 50 years, and previous research has consistently found positive effects on participating developing world producers (Levi & Linton, 2003; Ruben, 2009). However, there are signs of approaching limits on the movement's expansion and, therefore, on its ability to achieve its development goals.

FT initiatives contest the rights established by the World Trade Organization (WTO) and other global neoliberal institutions and seek to create alternative standards based on new understandings of environmental responsibility, justice, and the human right to a fair wage and acceptable working conditions. The standards for inclusion in the FT system sharply contrast with the dominant legal framework set forth by the WTO, but they do so within the existing global trade market. I apply Polanyi's (1944) concepts of embeddedness and the double movement, originally applied to the British government's rising use of protective regulations following laissez-faire policies, to the international economy. I argue that the recent wave of neoliberal policies spurs a new kind of protective countermovement—a nongovernmental, voluntary certification regulatory movement. While voluntary certifications range from labor to forest protection, FT represents the most extensive and inclusive branch of this countermovement. With standards applying to wages, working conditions, environmental practices, and community decision-making policies, among others, FT comprehensively addresses liberalizing trends.

However, the movement's use of market mechanisms while at the same time countering them fosters conflict within the movement. Drawing on Polanyi's (1944, 1957) concepts of embeddedness and the double movement, I examine the roots of this conflict. Specifically, I focus on the conflict that arises from the FT movement's simultaneous need for regulative forces and for liberalizing forces. Through the empirical investigation of the goals and objectives of the FT movement as they relate to their implementation, this research addresses the role of markets in protecting labor rights in the global South. I begin with a brief background account of the FT movement and the key principles and standards it enforces. I then consider the scholarly literature on FT markets and argue for the application of a Polanyian perspective to understanding both the rise and the limitations of the FT movement. I then present evidence from Fair Trade organization (FTO) Web pages, interview findings from key movement participants, and observation data from a landmark FT conference. Finally, I discuss how a Polanyian perspective informs these findings and conclude with an assessment of the possibilities and limitations of the FT movement.

FAIR TRADE: BACKGROUND AND STRUCTURE

The Fair Trade (FT) movement began in response to increasingly liberal policies set in place by the main governing body of conventional international trade, the General Agreement on Tariffs and Trade (GATT), which later became the World Trade Organization (WTO). Participants in the FT movement identify the GATT's primary goal of "substantial reduction of trade barriers and elimination of preferences" and the WTO's primary goal of "further reduction of trade barriers" (Lanoszka, 2009) as the central mechanisms behind between-nation inequality and poverty in the global South. The most widely used definition of Fair Trade is that it is

> a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers—especially in the South. Fair trade organizations, backed by consumers, are engaged actively in supporting producers, awareness raising and campaigning for changes in the rules and practices of conventional international trade. (FINE, 2005: 21)

As such, FT is best understood as a social movement working in opposition to the standards, practices, and goals of conventional international trade. By creating an alternative international trading system, the movement aims to simultaneously improve the conditions of Third World producers and educate consumers in the global North on the relationship between international trading relationships and developing world poverty.

Each network has distinct, yet similar standards for membership. Membership in the World Fair Trade Organization (WFTO), for example, is based on 10 principles: (1) creating opportunities for economically disadvantaged producers; (2) achieving transparency and accountability; (3) setting up fair trading practices; (4) ensuring the payment of a fair price; (5) ensuring there is no child or forced labor; (6) committing to nondiscrimination, gender equity, and freedom of association; (7) ensuring good working conditions; (8) providing capacity building; (9) promoting fair trade; and (10) achieving respect for the environment. Likewise, the standards set by the Fair Trade Federation are as follows: (1) creating opportunities for economically and socially marginalized producers; (2) developing transparent and accountable relationships between trading partners; (3) building producers' capacity or independence; (4) promoting Fair Trade; (5) paying workers promptly and fairly based on the framework of true costs of labor time, materials, sustainable growth, and related factors; (6) supporting safe and empowering working conditions; (7) ensuring the rights of children including the rights to security, education, and play; (8) cultivating environmental stewardship; and (9) respecting cultural identity while creating positive and equitable change. All organizations must demonstrate compliance with these standards in order to gain membership and use the FT label.

Structure of the FT Movement

Fair Trade organizations (FTOs) emerged in the mid-20th century and have since developed into three distinct organizational forms. The original form of direct sales networks of Northern consumers and Southern producers facilitated by nongovernmental organizations (NGOs) persists in some cases. In addition, some organizations have developed a product-level certification system, while other organizations have developed an organization-level certification system. All three organizational forms share the objective of equalizing trade and promoting economic and social development as well as environmental sustainability in the global South. FTOs emerged as institutions, first at the international level (i.e., between two nations only) and then at the global level (i.e., encompassing multiple nations), designed to regulate economic action: specifically, the economic, social, and environmental conditions of production. Since their emergence, complex networks of FTOs have proliferated throughout the globe. Fairly traded products first appeared among religious organizations and have since expanded into a wide variety of consumer outlets including catalogues, specialty shops, and grocery stores, primarily in the global North but increasingly in the global South as well. Fairly traded products were originally limited to handicrafts, but they have expanded to include a wide range of goods, from fresh produce to perishable items such as coffee and tea, and to prepackaged food items and clothing.

As such, the movement as a whole can be characterized as beginning with its roots firmly in religious groups, handicrafts, and direct sales networks and then transitioning in later years to less direct ties to religious organizations and the introduction of agricultural and other products and certification systems. One of the central points in this transition was the formation of FTO networks that served to coordinate efforts and streamline the trading process. Beginning in the mid-1970s, FTOs began to meet informally in conferences with the objective of sharing information and promoting Fair Trade practices and sales. Formal organizational networking activity can be traced back at least to the 1980s with the formation of the International Federation of Alternative Trade (IFAT) and the European Fair Trade Association (EFTA). However, the networking process culminated in 1997 with the establishment of FINE, the association of four international Fair Trade networks that have established a common definition and principles of Fair Trade. This network includes IFAT and EFTA as well as the Fairtrade Labeling Organization (FLO) and the Network of European Worldshoppes (NEWS!).

There are currently five major fair trade networks representing various types and numbers of members as well as different geographical spreads. They include the four members of FINE as well as the Fair Trade Federation (FTF). The Fairtrade Labeling Organization (FLO) is based in Bonn, Germany. As of the end of 2007, the FLO consisted of 20 national labeling organizations, 15 in Europe

and 5 in North America and the Pacific Rim, and 3 producer networks, one each in Africa, Asia, and Latin America. The World Fair Trade Organization (WFTO; formerly IFAT), based in the Netherlands, includes over 300 organizations—producer, importer, and support organizations. They are located in Africa, Asia, Europe, Latin America, and North America and the Pacific Rim. The Network of European Worldshoppes (NEWS!), based in Mainz, Germany, consists of 13 National Worldshoppe associations, 12 of which are confined to Europe. The European Fair Trade Association (EFTA), based in the Netherlands, includes 11 importing organizations, 9 of which operate exclusively in Europe. Finally, the Fair Trade Federation (FTF), based in Washington, DC, is a network of North American organizations committed to FT practices. The FTF consists of over 200 member organizations, which are primarily operating as retailers and wholesalers of FT products from the global South.

In addition to networking, the adoption of labeling marks a key transition point for FTOs. Until the mid-1980s, FT products were sold primarily in Worldshoppes or catalogues. In an effort to reach a broader public, FTOs implemented a labeling system. With this new system, products that were traded and sold complying with FT conditions would qualify for a label that would make that product stand out on store shelves. This system allowed any organization, not only FTOs, to sell fairly traded products. Within one year of the establishment of labeling, coffee with the certification label had a market share of almost 3% of total coffee sales (WFTO, 2009). In 1997, the worldwide association FLO was created, and it is now responsible for setting international standards for FT products, certifying production, and auditing trade according to these standards for the labeling of products. Currently, there are approximately 20 different labeled types of products (WFTO, 2009).

MARKETS AND MARKETIZATION

In the broadest sense, markets are social institutions that facilitate exchange (Coase, 1988). Neoclassical economic theory generally conceptualizes markets as price-making and resource-allocating mechanisms (Swedberg, 1994). Economists characterize markets as sites of "utility maximization," where all participants, having perfect information and the desire to enhance their benefits through exchange, act rationally and in isolation. Further, a great deal of this work, most notably from the Chicago School, assumes additionally that this exchange is inherently beneficial for all participants (Friedman & Friedman, 1980; Posner, 1981). Much of economic theory assumes that markets emerge from advances in technology that revolutionize the production of existing goods or create the possibility of new goods and the dynamics of competition between entrepreneurs supplying these new products (Fligstein, 2001). Forces of supply and demand keep markets in a state of equilibrium so that the needs of buyers and sellers are met. Competition between sellers keeps prices reasonable and rewards the most

efficient and innovative producers. The role of governments is largely ignored or criticized as introducing inefficiencies. As a result, complex social institutions such as common understandings, rules, and laws are omitted from economic discussions of markets (Fligstein, 2001).

However, the creation of the Fair Trade (FT) market runs counter to traditional economic views of the emergence and development of markets. Although FT can be viewed as a form of branding in the sense that a FT label signals to customers that a good was produced under particular conditions, that is, in line with established social, economic, and environmental standards, it is more complex than typical branding in that it represents an alternative logic of exchange meant to benefit producers. With FT, there is no new technology or product. World markets for coffee and handicrafts, respectively the largest and the initial FT products, have existed for hundreds of years. But the market for FT products did not emerge until the mid-20th century and did not expand substantially until the 1980s.

The novel part of this market is fairness, or the arrangements for social interactions and the treatment of the natural environment. FT retailers emphasize the poor conditions of developing world producers and bring personalized stories to their customers. Products often come with pictures and personal accounts of artisans and farmers. Further, unlike traditional markets, the FT market is consumer-led with an emphasis not only on quality of products but also on conditions of production and the advancement of developing-world producers. In addition, sellers emphasize the economic *and* social benefits such producers experience from participation in FT. Likewise, the consumption of FT products cannot be explained with traditional understandings of utility maximization.

Fair trade defies neoclassical logic, but it is located within the traditional international market. Economic accounts, especially neoclassical economic accounts, predict profit maximization where the leaders in global commodity chains should pressure producers to sell at the lowest prices (Gereffi, Humphrey, & Sturgeon,. 2005; Gereffi & Korzeniewicz, 1995). This perspective would predict this will happen at the expense of the environment and the living conditions of the laborers. Rather than considering the ecological and social damage incurred by the developing world, economistic analyses typically treat these costs as "externalities," or costs of profit-seeking activities that are placed outside of the entities that stand to make a profit. This ignores the true costs of production in both human and ecological terms. While the concept of economic externalities has been treated by economists in a variety of contexts, it is only narrowly conceived (Mackenzie, 2010). It is typically used to describe the practice of corporate pollution, for example, that is cleaned up by states at taxpayers' expense.

Especially given that global and national regulatory systems (GATT/WTO, tariffs) were already in place prior to the emergence of Fair Trade organizations, neoclassical externality analysis would find it hard to predict the emergence of a new regulatory form that exists within the current market but aims to redistribute

wealth and improve environmental and social conditions. Especially difficult for this theoretical perspective to predict is the initiation of the project by consumers in the global North. While the economic principle of consumer sovereignty suggests that consumers will determine production based on their purchasing power, it is not expected that they will select Third World development and ecological stewardship as criteria for product quality, for example. Because an FT label is almost always accompanied by a higher price tag than that of a traditionally traded comparable good, traditional economic perspectives will not likely anticipate the expansion of this particular market.

In contrast to traditional economic accounts, economic sociologists argue that the economy is not analytically separate from society (Krippner & Alvarez, 2007). In his classical argument, Polanyi (1944) argued, contrary to neoclassical economic theory, that the economy is embedded within the context of larger social arrangements. Society is, therefore, not subject to the laws of a self-regulating market. Rather, larger social forces shape market dynamics. Although the concept of *embeddedness* has been used in a variety of different ways, a large body of sociological research demonstrates that economic action is affected by a variety of social forces and institutions (Carruthers, 1996; Schneiberg & Bartley, 2008; Western, 1997). From this perspective, social forces are crucial to the functioning of markets as the development of new markets requires extensive social organization (Fligstein, 2001; Granovetter, 1985; Podolny, 1993).

In sum, economic sociology calls into question the assumptions made by economists that the economy is an analytically separate realm of society that can be understood in terms of its own internal dynamics, where politics and culture are external, and that individuals act rationally to maximize utilities in their model of the self-regulating market that integrates and harmonizes transactions in markets for products, labor, and capital (Block, 1990). Sociological accounts of economic action assume that economy and society are embedded in one another, rather than existing as analytically separate spheres. The subfield of economic sociology also considers multiple types of rational action including value-rationality. Here, I argue that Polanyi's (1944) concept of embeddedness is key to an analysis of Fair Trade.

Embeddedness and the Double Movement

Previous work on fair trade has highlighted the relevance of Karl Polanyi's (1944) concept of embeddedness for analyzing how FT and other initiatives are shaped by the social and political relations of commodity chains (Taylor, Murray, & Raynolds, 2005). According to Polanyi (1944), the rise of laissez-faire markets in 19th-century Britain represents a move toward the institutional separation of economy and society, or the dis-embedding of the economy from society. This dismantling of forces regulating the economy risks the overexploitation of the fictitious commodities, land, labor, and money. They are referred to as

fictitious because none are produced with the sole intent of sale on the market; nor are they dominated by the logic of supply and demand. In an extension of Polanyi's work, Block (1990) proposes a continuum from instrumental to embedded that combines two dimensions: first, the degree to which behavior is price driven; and second, the degree to which self-interest places economic goals ahead of friendship, family ties, spiritual considerations, or morality. Block argues that the existence of nonopportunistic behavior is evidence of embeddedness, of the power of noneconomic variables, such as the norms of a particular community or the strength of personal ties.

Consumption of fairly traded products highlights the role of social variables in economic behavior. For example, case studies of FT cooperatives reveal that producer organizations within the FT regime require a demonstrated commitment by prospective small-scale grower members that they "not be opportunistic but desire to stick with the cooperative through good and bad" (Taylor et al., 2005). Further, the principles and goals established by FTOs demonstrate their interest in equality, social justice, and environmentalism over profits. The FT movement values the conditions of production along with standard concerns with quality and price. As a result, FT can be understood as an attempt to re-embed economy into society via market mechanisms.

In addition, Polanyi (1944) argued that any movement toward liberalization must be met with a countermovement toward regulation, in order to prevent the commodification of land, labor, and money. Further, a fully self-regulating market is impossible, and we see the rise of regulatory efforts that are necessary to protect human populations and the natural environment (Polanyi, 1957). Polanyi refers to the expansion of free markets followed by protective regulations as the "double movement." The concept of the *double movement* can be usefully applied to the global level, where FT represents one aspect of the protective countermovement (Bandelj, Shorette, & Sowers, 2011; Fridell, 2007). Likewise, Schneiberg and Bartly (2008) find that, paradoxically, neoliberal globalization spurs regulatory efforts. The frequency and comprehensiveness of regulation by both state and nonstate bodies has increased as liberalizing policies enforcing tariff reduction and the privatization of national institutions have been on the rise (Vogel, 1996). As such, the expansion of FT markets can be seen as part of the protective countermovement to the rise of neoliberal globalization.

Fair Trade Markets: Expansion and Limits

Previous work on FT has found consistent support for the industry's claims that FT offers positive, though limited, benefits to participating producers and even to nonparticipating producers in the vicinity of FT farms (Bacon, 2005; Levi & Linton, 2003; Murray, Raynolds, & Taylor, 2003; Ruben, 2009). However, skepticism over the system's potential to fundamentally alter global development inequalities remains. Current literature focuses on two key limitations. First, the

contradiction of undermining the traditional market while simultaneously being located within it undermines the system's transformative power (Bacon, 2005). The strategy of "opposing the market from within," or aiming to alleviate global inequalities through the market system that created them, reveals an inherent contradiction in the FT system (Bacon et al., 2008; Nicholls & Opal, 2005). Some argue that capitalist markets are inherently characterized by exploitation and, therefore, require complete revolutionary transformation if developmental equality is to be achieved (Fridell, 2006). From this perspective, FT cannot be effective in its objectives while operating within the capitalist world economy. Therefore, Brown (1993) argues for the establishment of a system entirely outside the jurisdiction of the World Trade Organization. However, Raynolds (2000) argues that the movement's re-embedding of social and environmental issues into exchange relationships constitutes a significant revision of traditional market practices.

Second, the exclusivity versus expansion of FT markets poses several related problems. The system's dependence on exclusivity, where FT is attractive to customers at least partly because it differentiates them from mainstream consumers, limits the bounds of expansion (Guthman, 2009). As FT products become more widely available, they become less attractive to some consumers by virtue of their reduced exclusivity. In addition to reducing the cachet of belonging to an exclusive group, the expansion of FT to include a wider range of products risks dilution or the weakening of standards (Jaffee, 2010). As large, mainstream corporations such as Starbucks and Wal-Mart enter the FT market, standards are increasingly put at risk. Such corporate participants in FT may even strategize to dilute standards to their own benefit and the detriment of the FT movement (Renard, 2005). In this sense, Northern partners in FT vary greatly depending on the source, as the expansion of FT to include large corporations can potentially yield more damage than benefit (Fridell, 2009). However, if the movement is to impact more producers, it will have to move into mainstream markets where more consumers reside (Levi & Linton, 2003). As such, partnerships between businesses and nongovernmental organizations become necessary to provide a broader base for the market in FT goods that promotes the norms of economic, social, and environmental sustainability among consumers in the global North (Linton, 2005).

Finally, while FT practices have been consistently shown to improve conditions for producers in the global South, they are not typically a panacea for the reduction of growing world poverty (Bacon et al., 2008; Jaffee, 2007; Ruben, 2009). However, even marginal gains motivate continued efforts within the FT network, which continues to expand. Industry members and scholars attribute FT growth in the 1990s and the early 21st century to the certification and labeling process (Ponte, 2002; Raynolds, Murray, and Heller, 2007; WFTO, 2009). This suggests that the expansion of FT may require more market orientation (i.e., more standardization and less specificity). The early era of FT, which was

characterized by direct sales networks of handicraft products, depended very little on standardization. Producers generally designed and crafted their products on their own terms and without direction. Sellers in the global North would travel to production sites and purchase the goods for sale in Northern communities. They emphasized the value of traditional and unique products. However, as the FT movement expanded, it became increasingly market oriented. In order for FT products to move from small, local sales outlets, at churches, for example, to large retail outlets such as grocery stores, standardization was necessary. At this point, retailers in the global North began setting standards for design and quality, so that FT handicrafts still bore traditional cultural elements but were designed to appeal to a wider consumer audience and held to higher quality standards. The introduction of the labeling system represents a further move toward market orientation. A series of labels indicates that goods were produced under a particular set of conditions. This labeling system allowed for the mass production and distribution of FT products.

CHANGING NORMS AND NONGOVERNMENTAL GOVERNANCE

Traditionally, the state and interstate institutions have monopolized the governance of international trade. These institutions posses the material resources and technical information necessary to govern global trade. However, the rise of egalitarian world cultural norms undermines their legitimacy, which is also necessary for their role in governance (Scott, 2008). If we consider legitimacy as a "generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman, 1995: 574), we can see that world cultural norms support the exploitation of the periphery much less now than in previous centuries. Scott (2008) notes that structures can be simultaneously legitimated by entrenched authorities and contested by less powerful actors. International commodity trade, regulated by state and interstate organizations, is an example of a simultaneously legitimated and contested structure. The socially constructed system of neoclassical economics persists and spreads through the power of entrenched authorities. FTOs represent challenges to the legitimacy of this system by less powerful constituencies. Although power certainly matters in supporting legitimacy processes, it is not the absolute arbiter. According to Scott (2008: 61), "entrenched power is, in the long run, hapless against the onslaught of opposing power allies with more persuasive ideas or strong commitments." This suggests the possibility for the further expansion of FT in terms of organizations and total trade and potentially wider social change, where international commodity trade more closely aligns with world cultural norms.

Boli and Thomas (1999) argue that the goals of international nongovernmental organizations (INGOs) are often contrary to state interests and have been

successful in pressuring states to adopt wartime protections and development efforts in the periphery. For example, the International Committee of the Red Cross (ICRC) drafted and persuaded states to adopt the first Geneva Convention restricting legitimate state violence (Finnemore, 1999) and the formation of national development agencies dedicated to the development of other nations such as the United States Agency for International Development (USAID). Even if a shared cultural frame problematizes the same outcomes, divergent interests will obscure whose problem it is and how it should be addressed (Bartley, 2007). In the case of international trade, global economic development is one overtly agreed upon goal. However, views on the causes of underdevelopment and strategies for increasing development vary greatly. State and interstate institutions address the problem one way, namely, via trade liberalization, whereas FTOs take a contrasting approach. Polanyi (1944) argues for the necessity of state regulation of markets. However, the size and scope of contemporary globalization and international trade require regulation beyond the level of the national state, agreements between nation states, and state-based global governance institutions such as the United Nations. According to Bartley (2007: 298), "most scholars agree that the globalization of supply chains and the lack of existing regulatory capacity at the global level generate demands for new forms of 'global governance.'" Voluntary certification systems in general, and FT in particular, represent new, nonstate forms of governance.

Further, the emergence of FT and other voluntary certification systems is just one part of a broad movement to regulate economic activity in accordance with the social justice principle over profits. The development and expansion of micro-credit systems in Brazil (Gutberlet, 2009) and of bartering economies in Peru (Argumedo & Pimbert, 2010), along with government policy–based initiatives that prioritize overall well-being ahead of profits (Stiglitz & Charlton, 2006), represent market-based social justice initiatives throughout the global South. The notion of a "solidarity economy," or the construction of economies based on social justice, has been used widely in efforts parallel to those of FT.

DATA AND METHODS

Content Analysis

I have performed a content analysis of the mission, value, and summary statements of the most central organizations within the FT movement. This includes the pioneering organizations, Ten Thousand Villages and Serve International, the FINE members (the Fairtrade Labeling Organization, World Fair Trade Organization, Network of European Worldshoppes, and European Fair Trade Association), the Fair Trade Federation, and the central information-based organizations, the Fair Trade Institute and the Fair Trade Resource Network. In addition, I have included a stratified random sample of 100 additional FT

network member organizations, which includes organizations that belong to all five major FT networks, as well as producer, labeling, wholesale, and retail organizations from all major regions of the world.

Many organizations provide an official mission statement, while others have sections on their "vision," "values," and general "about us" sections posted on their Web pages. I have included all of these statements in the content analysis. The vast majority of Web pages are available in English. For those that are posted in languages other than English, I have used Google Translate and performed the content analysis on the translated content.

Participant Observation

In addition, I attended the Fair Trade Futures Conference 2010, which brought together members of the FT community from every part of the system: producers, consumers, retailers, wholesalers, activists, and academics were all present. The conference is part of a series that meets every five years to evaluate the status of the movement and discuss its next steps. Over the course of the three-day conference, I attended two luncheon working groups, one debate, three seminars, two keynote speeches, and the welcome and farewell plenary sessions. In addition, I conducted 22 informal and unstructured interviews for a total of 30 hours of participant observation. My informal interviews were conducted before and after conference hours, during scheduled breaks, and at the "market-place" where retailers set up mini FT shops with samples and items for sale. During the interviews and observations, I identified myself as having a university affiliation when asked and as indicated by my conference badge.

FINDINGS

Official Organization Statements

Though variation exists, FTO Web pages present several coherent and unified themes. I found that the most common key words and phrases are "equality," "justice," and "development," with over 70% of organizations invoking these terms. These themes are followed by "poverty alleviation," "partnership," "sustainability," "market access," and "economic empowerment," each found in between 40% and 60% of organizations' official statements. See Table 1 for the precise frequency of each of these key words and phrases. I have arrived at two conclusions based on these results. First, the overall goals of the movement are quite consistent despite great variation in the size, location, and capacity of participating organizations. Second, the central terms and phrases consistently invoked by these organizations contrast strongly with the imagery and terminology used by the dominant global governance institutions that promote liberalization and privatization. In sum, the findings from content analysis show a unified mission of FT participants that works to counter the effects of neoliberalism.

Table 1. Results of Content Analysis

Key words and phrases	Percentage of organizations invoking terms
Equality	82
Justice	79
Development	73
Poverty Alleviation	58
Partnership	53
Sustainability	53
Market Access	41
Economic empowerment	40

For example, the Fair Trade Resource Network's mission statement claims that the organization "seeks to improve people's lives through Fair Trade alternatives . . . and to build a more just and sustainable world through Fair Trade." In addition, several organizations express unified goals while alluding to the current neoliberal-based system. The World Fair Trade Organization argues, for example, that it "provides greater justice in world trade and highlights the need for change in the rules and practices of conventional trade." Likewise, the Fairtrade Labeling Organization argues that "trade can be a fundamental driver of poverty reduction and greater sustainable development, but only if it is managed for that purpose, with greater equality and transparency than is currently the norm." Each of these organizations identifies shortcomings in the current conventional trading system and the possibility for changing its negative effects.

In addition to revealing the FTOs' consistent objectives of countering neoliberalism via alternative trading relationships, the content analysis revealed important distinctions between the various FTOs. The main differences lie in their motivation and their target populations. The majority of organizations reported motivation by means of secular norms of social justice and environmentalism. Many of the Web pages invoked images of "global citizens," highlighting "connectedness" with people from different geographical and social locations. These types of pages appealed to consumers' belief in their responsibility to support producers in the global South via notions of human rights and social justice. A much smaller segment of the FT population invokes religious imagery in its descriptions of its objectives. While the final goals of equality, justice, and environmentalism are consistent, these organizations motivate potential supporters via "God's word," occasionally providing specific Bible passages. These

organizations also tend to include the objectives of promoting "spirituality" or "Christianity" along with the standard FT goals. In addition, the majority of organizations target producers in the global South generally. However, some work specifically with narrower populations such as women, children, handicapped people, and diseased groups. However, despite these differences, the organizations maintain a coherent line of objectives in opposition to conventional trade policies and practices.

Conference Dynamics

The conference that I attended was unified by the collective desire for a more just and equal international trading system that respects and empowers producers in the developing world. Interview and participant observation evidence suggests that the discourse of international trade positions FT in opposition to conventional trade, where liberalization spearheaded by intergovernmental organizations such as the GATT/WTO is met with countermovements toward regulation of the economic, social, and environmental conditions of production and trade. Throughout the conference, participants in a variety of positions within the FT system referred to the unjust ideologies and policies of conventional trade and frequently evoked the WTO with disdain. They argued that conventional trade policies negatively impact producers in the global South and positioned their participation within FT as opposing these conventional practices. The conference was marked by an overall shared commitment to improving the lives of developing world producers. However, conceptions of justness and the proposed approaches to this end varied dramatically. The program of the conference was organized around central debates reflecting existing points of contention within the FT system. The debates focused mainly on the issues of the relative power of participants from the global North and South within the FT system, the implementation of the labeling system, and the desired level of exclusivity. In line with this focus was the overall heated and passionate tone of the conference. Long lines formed during the open question sessions that followed panel presentations. Participants enthusiastically and passionately expressed their views, often with exasperation. A variety of perspectives and contentious debate characterized the three-day event. However, the conference did not result in any consensus on the desired future directions of the FT movement as its title suggested.

The particular points of contention that emerged and the failure to resolve them during the conference are rooted in the FT movement's contradictory position of opposing the market from within. Traditional markets move toward the commodification of labor—that is, the application of the principles of supply and demand to human productive activity. However, the FT system promotes the embeddedness of economy in society through the decommodification of labor, specifically for producers in the global South. However, the expansion of the FT system to include more consumers and positively affect more producers

requires further market orientation or liberalization. The production of FT goods on a mass scale and at an accessible price for average consumers in the global North, therefore, threatens the standards at the base of the FT system. The following points of contention arising at the conference reveal the tension between the need to liberalize and the need to regulate.

Throughout the conference, I identified four central debates: (1) producer representation and decision-making power; (2) the structure of the primary certification body, FLO; (3) the regulation of products with complex commodity chains; and (4) the value of exclusivity in the FT market. The debates are described in detail below. Note that the names of conference participants are altered to protect their confidentiality.

The first of the four central debates raised at the Fair Trade Futures Conference was the representation of producers in the decision-making process, especially within the Fairtrade Labeling Organization (FLO). FLO codifies and enforces the FT standards. It is composed of 22 members, 20 of which represent the global North and 2 of which represent the global South. In the opening plenary session, Miguel Gutierrez, president of Candela Peru, a WFTO producer organization member, argued vehemently that producers require and deserve a greater voice within the primary certifying agency. A FLO representative and former vice chair of the organization sympathized with Gutierrez' position but suggested this was not possible due to organizational constraints; that greater control of the certification process was necessary in the global North. He argued that increased participation from producers would increase the cost of the certification process and was, therefore, not desirable for anyone in the FT system. This response was met with great fury by the mostly Northern audience dedicated to the promotion of democracy and equality in North-South trading relationships. For the remainder of the conference, this senior representative of FLO was rarely without a companion who wished to argue with him.

Next, many of the debates centered on the roles of certification and labeling in the FT system. I spoke with Ahmad Al Massri, director of Canaan Fair Trade in Jenin, Palestine, who holds a doctoral degree in anthropology from the University of Wisconsin. He expressed concern over the FLO certification process. According to Dr. Al Massri, the FLO's practice of operating mostly on sales commissions results in its tendency to ignore small producers. Despite being in full compliance early on, Dr. Al Massri was only able to convince FLO to evaluate his products *after* they demonstrated robust sales in the Whole Foods grocery chains. Likewise, representatives from a company specializing in personal care products pointed to the disadvantages of FLO's commission-based certification process. However, their solution was to work with a different certifying agency. They applied for and were granted the Institute of Marketecology (IMO) fair trade label, which requires a one-time application fee, unconnected with the outcome of the evaluation or with later product sales. This in turn sparked additional debate over the number and meaning of labels used to

indicate FT practices and standards, where some condemned and others applauded the use of non-FLO certifications.

Participants were also concerned about the capacity of the current certification system to regulate more complex commodity chains. Bená, a representative of Maggie's Apparel Company, lamented the difficulty of securing multi-stage production models for certification that spans continents with different living wages. How can she communicate to customers clearly that a garment was produced under FT conditions at every stage in the process? An initial solution pointed to a pilot project initiated by Transfair USA, the primary network of FT in the United States. Many conference participants were upset by the pilot project for certifying apparel that does not enforce FT standards for any of the many stages between cotton growing and pattern cutting. From their perspective, every stage is equally important, but for Bená, certifying a partial commodity chain made her products far superior to conventionally traded apparel. To her dismay, some attendees argued that this type of regulation was meaningless and devalued all FT goods and, therefore, should be discontinued. Others came to Bená's defense and argued that while certainly a labeling system certifying all stages in production is essential to the expansion of FT and, therefore, to benefiting more producers in the global South, the pilot project is useful as a first step toward including complex commodities in the FT system and benefiting some of the most marginalized workers in the global South: apparel and garment industry workers.

In a related line of contention, there was much debate over the value of the FT label and the exclusivity of the system. This debate revealed a rift among the participants that divided them on the basis of their perception of the value of a labeling system. Many argued that labels are essential for market entry. While FT labels do not address an entire commodity chain and are not accessible to all producers, they are an essential tool for the expansion of FT. Others, in contrast, argued for a return to direct sales networks exclusively. In addition, conference participants argued over the benefits and drawbacks of opening up FT to a more mainstream market. Some argued for the expansion of FT products into mainstream and discount retail outlets such as Wal-Mart, where more con-sumers, and especially low-income consumers, would gain access. Others insisted that FT's entry into mainstream outlets such as Starbucks had devalued the system, thereby hurting its producers. Advocates of this perspective insisted that allowing FT goods into a discount retail outlet with a questionable human rights record would only exacerbate and further devalue the FT label. Conference participants represented a wide array of opinions on this topic, ranging from complete mainstreaming to hyper exclusivity.

In sum, a content analysis of FTO mission statements points to consistent commitment to the common themes of human rights, equality in decision making and economic outcomes, environmentalism, and the promotion of Third World development. Observations and interviews highlighted the commitment of FT

participants to these common goals. However, observations and interviews also revealed ambivalence as to how to achieve the collective goals. This ambivalence is rooted in the tension between liberalizing and regulative forces, which stems from the location of FT's countermarket objectives within the market itself. My interviews with FT participants and my observation of a key conference centered on establishing the future of the movement reveal that the system's internal dynamics, especially the arguments over producer representation, the certification process, and exclusivity and standards are highly contentious. Each of these points of contention can be understood in terms of liberalizing versus regulative forces. In the end, the Fair Trade Futures Conference suggested a contentious and ambiguous future for FT goods and participants.

DISCUSSION AND CONCLUSION

Previous research highlights the importance of rising voluntary certification systems in general (Bartley 2007; Schneiberg & Bartley 2008) and identifies the positive though limited effects of producer participation in the FT system specifically (Bacon et al., 2008; Fridell, 2007; Jaffee, 2007; Levi & Linton, 2003; Ruben, 2009). Here, I use Polanyi's (1944, 1957) classic work to understand the presence of conflict within the FT movement over its future directions, despite a large consensus on the movement's overall objectives. I apply Polanyi's classic concepts of embeddedness and the double movement to the contemporary global economy and to nonstate actors. I extend Polanyi's (1944) classic argument that a movement toward liberalization must be met with a protective countermovement toward regulation in order to restore the embeddedness of economy in society to the contemporary era. I argue that the rise of voluntary certification systems in general and FT initiatives specifically represent a protective countermovement in response to the liberalizing moves of the dominant global governance institutions but are plagued by conflict because of their paradoxical position of countering market forces from within.

Movement participants agree on the promotion of a more just international trading system that supports sustainable economic and social development in the global South, as is evident in organization mission statements and conference statements. Because they see the FT system as the best means to this end, participants generally aim for it to affect as many people as possible. However, the movement's aim of countering the market from within creates a point of contradiction from which movement conflict arises. FT's use of market forces in the regulation of international exchange (i.e., regulating the market from within) inherently leads to the rise of conflict. This conflict lies in the tension between the movement's need to both liberalize and regulate in order to achieve its objectives.

Thus, the expansion of FT seems to depend mostly on more standardization and less specificity. Since the certification system was implemented, the total volume of sales has increased dramatically, as has the variety of products available

on the FT market. Some participants embrace the potential of the market system, arguing for the expansion of FT products into ever more retail outlets, making the products available to a wider consumer base. These participants identify the potential for further market orientation or commodification to broaden the movement and therefore positively affect more developing world producers. Expansion of the certification system and inclusion of corporate partners represent moves toward liberalizing FT products. Other participants remain wary of the market and cling tightly to the movement's original structure of direct sales networks. These participants recognize the potential of marketization to dilute the FT standards, thereby diluting the positive effects on producers. As a result, they promote further regulation via the maintenance of close consumer-producer relationships.

In addition to the conflict over quality versus quantity, the specifics of the certification process are quite contentious within the movement. Dueling forces of efficiency and democracy, again representing liberalization and regulation respectively, arise in the setting and enforcement of standards. The current under-representation of producers from the global South in the certification process undermines the goals of equality, transparency, and respect. However, increased participation of global actors with limited resources makes the process much more costly, which, in turn, makes the FT products less marketable. As such, the FT movement requires further market orientation or liberalization in order to maintain its consumer base, but further decommodification or regulation in order to maintain its standards for producers. There are limits to the additional price FT consumers will pay, even if it comes at the expense of democratic decision making between participants in the global North and South. As a result, movement participants as a whole are ambivalent as to how best further their mission.

Moreover, the limitations of this system lie as much in the system's decentralized, voluntary nature as in its market orientation. In Polanyi's (1944) original analysis of the double movement, the state implemented both the increased liberalization and the increased regulation of markets. In the case of FT, international organizations, primarily the World Trade Organization (WTO) but also the International Monetary Fund (IMF) and World Bank, implement and promote liberalizing policies. Rather than state-based initiatives, regulatory forces have come in large part in the form of nongovernmental voluntary certifications. At this point, it is not clear that voluntary, nongovernmental initiatives can have a substantial regulatory impact on international production processes and trade.

The conflict within the FT movement points to the contradiction between the movement's need simultaneously to liberalize and to regulate in order to achieve its collectively agreed upon goal, and ultimately points to the limitations for the movement's expansion. The expansion of the FT movement depends on increased market orientation. But the movement's primary objective is to counter marketization. The further market orientation necessary for expansion contradicts the principles of embeddedness at the center of the movement.

APPENDIX A: ACRONYM KEY

EFTA	European Fair Trade Association
FINE	Combined Network of FLO, IFAT (WFTO), NEWS! and EFTA
FLO International	Fairtrade Labeling Organization
FT	Fair Trade
FTF	Fair Trade Federation
FTO	Fair Trade organization
GATT	General Agreement on Tariffs and Trade
IFAT	International Federation for Alternative Trade— Now WFTO
IMF	International Monetary Fund
NEWS!	Network of European Worldshoppes
Serve International	Sales Exchange for Refugee Rehabilitation and Vocation
WFTO	World Fair Trade Organization—Formerly IFAT
WTO	World Trade Organization

REFERENCES

Argumedo, A., & Pimbert, M. 2010. Bypassing globalization: Barter markets as a new indigenous economy in Peru. *Development,* 53: 343–349.

Bacon, C. 2005. Confronting the coffee crisis: Can Fair Trade, organic, and specialty coffee reduce small-scale farmer vulnerability in Northern Nicaragua? *World Development,* 33: 497–511.

Bacon, C., Mendez, V. E., Flores Gomez, M. E., Stuart, D., & Diaz Flores, S. R. 2008. Are sustainable coffee certifications enough to secure farmer livelihoods? The Millennium Development Goals and Nicaragua's Fair Trade cooperatives. *Globalization,* 5: 259–274.

Bandelj, N., Shorette, K., & Sowers, E. 2011. Neoliberal globalization and work: A Polanyian perspective. *Sociology Compass,* 5: 807–823.

Bartley, T. 2007. Institutional emergence in an era of globalization: The rise of transnational private regulation of labor and environmental conditions. *American Journal of Sociology,* 113: 297–351.

Block, F. 1990. *Postindustrial possibilities: A critique of economic discourse.* Berkeley, CA: University of California Press.

Boli, J., & Thomas, G. M. 1999. INGOs and the organization of world culture. In J. Boli & G. M. Thomas (Eds.), *Constructing world culture: International nongovernmental organizations since 1875:* 13–49. Stanford, CA: Stanford University Press.

Brown, M. B. 1993. *Fair Trade: Reform and realities in the international trading system.* London: Zed Books.

Carruthers, B. G. 1996. *City of capital: Politics and markets in the English financial revolution.* Princeton, NJ: Princeton University Press.

Coase, R. H. 1988. *The firm, the market and the law.* Chicago: University of Chicago Press.

FINE. 2005. *Fair Trade in Europe 2005: Facts and figures on Fair Trade in 25 European countries.* Brussels: Fair Trade Advocacy Office.

Finnemore, M. 1999. Rules of war and wars of rules: The International Red Cross and the restraint of state violence. In J. Boli & G. M. Thomas (Eds.), *Constructing world culture: International nongovernmental organizations since 1875:* 149–165. Stanford, CA: Stanford University Press.

Fligstein, N. 2001. *The architecture of markets: An economic sociology of twenty-first-century capitalist societies.* Princeton, NJ: Princeton University Press.

Fridell, G. 2006. Fair Trade and neoliberalism: Assessing emerging perspectives. *Latin American Perspectives,* 151(33): 8–28.

Fridell, G. 2007. *Fair Trade coffee: The prospects and pitfalls of market-driven social justice.* Toronto: University of Toronto Press.

Fridell, G. 2009. The cooperative and the corporation: Competing visions of the future of Fair Trade. *Journal of Business Ethics,* 86: 81–95.

Friedman, M., & Friedman, R. 1980. The power of the market. In M. Friedman & R. Friedman (Eds.), *Free to Choose: A Personal Statement:* 27–58. Harmondsworth, UK: Penguin Books.

Gereffi, G., Humphrey, J., & Sturgeon, T. 2005. The governance of global value chains. *Review of International Political Economy,* 12: 78–104.

Gereffi, G., & Korzeniewicz, M. 1995. *Commodity chains and global capitalism.* Westport, CT: Praeger.

Granovetter, M. 1985. Economic action and social structure: The problem of embeddedness. *American Journal of Sociology,* 91: 481–510.

Gutberlet, J. 2009. Solidarity economy and recycling co-ops in Sao Paulo: Micro-credit to alleviate poverty. *Development in Practice,* 19: 737–751.

Guthman, J. 2009. Unveiling the unveiling: Commodity chains, commodity fetishism, and the "value" of voluntary, ethical food labels. In J. Bair (Ed.), *Frontiers of commodity chain research:* 190–210. Stanford, CA: Stanford University Press.

Jaffee, D. 2007. *Brewing justice: Fair Trade coffee, sustainability, and survival.* Berkeley: University of California Press.

Jaffee, D. 2010. Fair trade standards, corporate participation, and social movement responses in the United States. *Journal of Business Ethics,* 92: 267–285.

Krippner, G. R., & Alvarez, A. S. 2007. Embeddedness and the intellectual projects of economic sociology. *Annual Review of Sociology,* 33: 219–240.

Lanoszka, A. 2009. *The World Trade Organization: Changing dynamics in the global political economy.* Boulder, CO: Lynne Rienner Publishers.

Levi, M., & Linton, A. 2003. Fair Trade: A cup at a time? *Politics and Society,* 31: 407–432.

Linton, A. 2005. Partnering for sustainability: Business-NGO alliances in the coffee industry. *Development in Practice,* 15: 600–614.

Mackenzie, S. 2010. Counterfeiting as corporate externality: Intellectual property crime and global insecurity. *Crime, Law and Social Change,* 54: 21–38.

Murray, D. L., Raynolds, L. T., & Taylor, P. L. 2003. One cup at a time: Poverty alleviation and Fair Trade coffee in Latin America. Retrieved from http://www.cfat.colostate.edu/research/one-cup-at-a-time/, October 2011.

Nicholls, A., & Opal, C. 2005. *Fair Trade: Market-driven ethical consumption.* London: Sage.

Podolny, J. M. 1993. A status-based model of market competition. *American Journal of Sociology,* 98: 829–872.

Polanyi, K. 1944. *The Great Transformation: The economic and social origins of our time.* Boston, MA: Beacon Press.

Polanyi, K. 1957. Economy as instituted process. In K. Polanyi, C. M. Arensberg, & H. V. Pearson (Eds.), *Trade and market in the early empires: Economies in history and theory:* 243–267. New York: Free Press.

Ponte, S. 2002. The "Latte Revolution"? Regulation, markets and consumption in the global coffee chain. *World Development*, 30: 1099–1122.

Posner, R. 1981. *The economics of justice.* Cambridge, MA: Harvard University Press.

Raynolds, L. T. 2000. Re-embedding global agriculture: The international organic and Fair Trade movements. *Agriculture and Human Values,* 17: 297–309.

Raynolds, L. T., Murray, D., & Heller, A. 2007. Regulating sustainability in the coffee sector: A comparative analysis of third-party environmental and social certification initiatives. *Agriculture and Human Values,* 24: 147–163.

Renard, M.-C. 2005. Quality certification, regulation and power in Fair Trade. *Journal of Rural Studies,* 21: 419–431.

Ruben, R. 2009. *The impact of Fair Trade.* Wageningen, Netherlands: Wageningen Academic Publishers.

Schneiberg, M., & Bartley, T. 2008. Organizations, regulation, and economic behavior: Regulatory dynamics and forms from the nineteenth to twenty-first century. *Annual Review of Law and Social Science,* 4: 31–61.

Scott, W. R. 2008. *Institutions and organizations: Ideas and interests* (3rd ed.). Thousand Oaks, CA: Sage.

Stiglitz, J. E., & Charlton, A. 2006. *Fair Trade for all: How trade can promote development.* Oxford: Oxford University Press.

Suchman, M. C. 1995. Managing legitimacy: Strategic and institutional approaches. *Academy of Management Review,* 20: 571–610.

Swedberg, R. 1994. Markets as social structures. In N. J. Smelser & R. Swedberg (Eds.), *The handbook of economic sociology:* 255–282. Princeton, NJ: Princeton University Press.

Taylor, P. L., Murray, D. L., &. Raynolds, L. T. 2005. Keeping trade fair: Governance challenges in the Fair Trade coffee initiative. *Sustainable Development,* 13: 199–208.

Vogel, S. K. 1996. *Freer markets, more rules: Regulatory reform in advanced industrial countries.* Ithaca, NY: Cornell University Press.

Western, B. 1997. *Between class and market: Postwar unionization in the capitalist democracies.* Princeton, NJ: Princeton University Press.

World Fair Trade Organization [WFTO]. 2009. *2008 annual report.* Culemborg, Netherlands: WFTO.

Direct reprint requests to:

Kristen Shorette
Department of Sociology
University of California, Irvine
3151 Social Science Plaza A
Irvine, CA 92697
e-mail: kshorett@uci.edu

ACTIVIST PERSPECTIVE: THE ROLE OF INDEPENDENT LABOR ORGANIZATIONS IN THE EGYPTIAN REVOLUTION

AHMED KAMEL

Center for Middle Eastern and North African Politics
Free University of Berlin

The role of independent trade unions in the Egyptian revolution began some years ago, before the massive demonstration in Tahrir Square on January 25, 2011. The Centre for Trade Union and Workers Services and the Real Estate Tax Authority union can be described as the main actors of the independent trade union movement before the revolution. In 2006, workers at the Mahala El Kobra spinning and weaving company organized a massive strike over cuts in their annual bonuses and the government's plans to privatize the company, which is the largest manufacturer in the country and employs around 27,000 workers. The rare victory of the Mahala workers and labor activists inspired thousands of workers in other workplaces to launch their own militant trade union actions with a large series of wildcat strikes, in which the independent labor movement was highly active in mobilizing the labor force.

Between 2006 and 2008, it was reported that tens (it was really lots so by saying tens I refer to this) of strikes took place outside the formal trade union structure. In 2008, for example, tax collectors were able to establish the first ever independent trade union in Egypt, which emerged from their strike demanding better wages and working conditions. On April 6–7, 2008, the city of Mahala El Kobra witnessed mass protests over bread prices and strikes by textile workers calling for better wages and working conditions, independent labor representation, and the resignation of the formal trade union committee at the Mahala El Kobra spinning and weaving company. The protests involved both workers and members

483

of the general public. The Mubarak government realized the threat posed by the action, and therefore it responded very brutally, killing and arresting a number of workers and demonstrators. However, the joint action by labor and the public served as a platform for the formulation of some initial public demands, for a minimum wage for all and the ending of high prices. Furthermore, such action saw the real birth of the 6 April Political Movement, which was named after the 2008 protests in Mahala and played a prominent role in the mobilization for the Egyptian revolution.

The waves of labor protests and strikes between 2006 and 2011 have been described as the biggest in Egypt during the last 60 years. Indeed, it can be argued that workers in Egypt started their revolution in 2006, and contributed significantly to formulating the general demands of the revolution in the first place. They were also able, through this series of actions, to establish their own independent unions and organizations, in spite of the law's ban on independent unions and the threat of punishments for founding them. These independent organizations challenged the Mubarak regime and forced it to come to the table and negotiate. The workers' actions also served as an example to Egyptians as to why to revolt, what the outcomes would be, and what sacrifices would be involved. During the broader Egyptian revolution, labor activists and the independent unions were among the first forces to start demonstrating and to occupy Tahrir Square. They then successfully mobilized other Egyptians to join the revolt. On January 30, 2011, the independent trade unions came together to declare the foundation of the Egyptian Federation of Independent Trade Unions (EFITU) from Tahrir Square and immediately called for a general strike. Hundreds of thousands responded to the call. The workers' unity and their positive response to EFITU's call were among the important tools used to put pressure on Mubarak to step down, which he did on February 11, 2011. The revolution consolidated the space for independent unions, but they, like the rest of the Egyptian people, continue to face great challenges in the struggle for democracy and a decent standard of living.

Direct reprint requests to:

Ahmed Kamel
Paul-Junius st 44
10369 Berlin
Germany
e-mail: ahmedkamel79@yahoo.com

COMMENT: KEEPING THE POLITICS IN LABOR RESEARCH

GAY SEIDMAN

Department of Sociology, University of Wisconsin–Madison

The papers presented at the UCLA Labor Studies Center's "Labor in the Global South" conference, many of which are compiled in this issue, are outstanding. Insightful, varied, and thoughtful, they explore a broad range of issues related to work and development in the early 21st century, reflecting on fieldwork in settings as disparate as factories in Buenos Aires and street vendors in Mumbai, examining workers' and unions' responses to the challenges of globalization and social change.

But the silences during the conference were also striking—a reflection, perhaps, of the way in which two decades of post–Cold War globalization have rewritten the script for emergent labor movements, and thus for labor scholars. Twenty years ago, labor movements seemed to stand at the center of movements for democratization and social change; labor struggles seemed to be redefining citizenship, as workers struggled for political and social inclusion. Political power seemed central: democratization seemed to promise a first step toward protecting labor rights and improving citizens' lives.

Twenty years later, as multiparty democracy has become more widespread, it has become ever harder for policymakers to offer alternatives to the economic package often described as the "Washington consensus"; labor's access to political power seems less salient. In an increasingly integrated and competitive global economy, even labor-friendly political parties find it difficult to conceptualize real alternatives to policies aimed at attracting international capital.

In this context, perhaps it is not surprising that labor sociologists are tending to focus more on the dynamics within labor movements and poor communities—on issues like the relationship between "informal" and "formal" sector workers, or union responses to downsizing.

485

Over the past few decades, business associations around the world have worked hard to weaken legal protections for union organizers and workers. In an era when labor organizations are already struggling, states everywhere have faced employer pressure to make labor law more "flexible," eroding worker protections and changing the rules of the game for organizers. Labor laws protecting individuals have been steadily weakened, either through legislative changes or through states' failure to enforce laws that are on the books.

This seems to me an area in which labor scholars can make a real contribution. Even in this "post–Washington consensus" moment—when the 2008 financial crisis has undermined the force of the neoliberal policy prescriptions that dominated the 1990s—policymakers still insist that labor laws and "labor market rigidities" could scare off investors. But these claims have surprisingly little empirical support, and, indeed, some studies suggest that raising labor standards will not affect employment levels. By contrast, few would disagree with the fact that labor law enforcement can improve working conditions and strengthen workers' abilities to organize and speak for themselves.

Activists are often focused on immediate tactical decisions and concerns, and they are generally attentive to local community concerns. In my experience, when labor scholars include questions about how broad political contexts and legal frameworks shape that local context, their work is more likely to offer activists information they need. A recent reminder of the importance of these questions comes from very close to home: in Wisconsin, a Republican governor recently signed legislation removing the collective bargaining rights of most public employees, a step that has forced American unionists to reexamine their relationship to political and legal reform. But in places like India—where more than 90% of the workforce is technically "informal," working in establishments that for one reason or another fall outside the legal framework for collective bargaining—the "rules of the game" often determine which workers can organize, and how and where they can find allies. As Michael Burawoy pointed out in his classic *Manufacturing Consent*, workers' lives are shaped by state policies which play out inside workplaces, often without comment. Labor scholars can make that process visible, offering insights that activists can use in their organizing efforts.

Direct reprint requests to:

Gay Seidman
Sociology Department
University of Wisconsin-Madison
1180 University Drive
Madison WI 53706
e-mail: seidman@ssc.wisc.edu

Journal of WORKPLACE RIGHTS
Index—Contents of Volume 15, 2010-2011

487