

# Sweatshops and Respect for Persons

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*Denis G. Arnold and Norman E. Bowie*

In recent years labor and human rights activists have been successful at raising public awareness regarding labor practices in both American and offshore manufacturing facilities.

Organizations such as Human Rights Watch, United Students Against Sweatshops, the National Labor Coalition, Sweatshop Watch, and the Interfaith Center on Corporate

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Responsibility have accused multinational enterprises (MNEs), such as Nike, Wal-Mart, and Disney, of the pernicious exploitation of workers. Recent violations of American and European labor laws have received considerable attention.<sup>1</sup> However, it is the offshore labor practices of North American- and European-based MNEs and their contractors that have been most controversial. This is partly due to the fact that many of the labor practices in question are legal outside North America and Europe, or are tolerated by corrupt or repressive political regimes. Unlike the recent immigrants who toil in the illegal sweatshops of North America and Europe, workers in developing nations typically have no recourse to the law or social service agencies. Activists have sought to enhance the welfare of these workers by pressuring MNEs to comply with labor laws, prohibit coercion, improve health and safety standards, and pay a living wage in their global sourcing operations. Meanwhile, prominent economists wage a campaign of their own in the opinion pages of leading newspapers, arguing that because workers for MNEs are often paid better when compared with local wages, they are fortunate to have such work. Furthermore, they argue that higher wages and improved working conditions will raise unemployment levels.

One test of a robust ethical theory is its ability to shed light on ethical problems. One of the standard criticisms of Immanuel Kant's ethical theory is that it is too abstract and formal to be of any use in practical decision making. We contend that this criticism is mistaken and that Kantian theory has much to say about the ethics of sweatshops.<sup>2</sup> We argue that Kant's conception of human dignity provides a clear basis for grounding the obligations of employers to employees. In particular, we argue that respecting the dignity of workers requires that MNEs and their contractors adhere to local labor laws, refrain from coercion, meet minimum safety standards, and provide a liv-

ing wage for employees. We also respond to the objection that improving health and safety conditions and providing a living wage would cause greater harm than good.

## I. RESPECT FOR PERSONS

Critics of sweatshops frequently ground their protests in appeals to human dignity and human rights. Arguably, Kantian ethics provides a philosophical basis for such moral pronouncements. The key principle here is Kant's second formulation of the categorical imperative: "Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only."<sup>3</sup> The popular expression of this principle is that morality requires that we respect people. One significant feature of the idea of respect for persons is that its derivation and application can be assessed independently of other elements of Kantian moral philosophy. Sympathetic readers need not embrace all aspects of Kant's system of ethics in order to grant the merit of Kant's arguments for the second formulation of the categorical imperative. This is because Kant's defense of respect for persons is grounded in the uncontroversial claim that humans are capable of rational, self-governing activity. We believe that individuals with a wide range of theoretical commitments can and should recognize the force of Kant's arguments concerning respect for persons.

Kant did not simply assert that persons are entitled to respect; he provided an elaborate argument for that conclusion. Persons ought to be respected because persons have dignity. For Kant, an object that has dignity is beyond price. Employees have a dignity that machines and capital do not have. They have dignity because they are capable of moral activity. As free beings capable of self-governance they are responsible beings, since freedom and self-

governance are the conditions for responsibility. Autonomous responsible beings are capable of making and following their own laws; they are not simply subject to the causal laws of nature. Anyone who recognizes that he or she is free should recognize that he or she is responsible (that he or she is a moral being). As Kant argues, the fact that one is a moral being entails that one possesses dignity.

Morality is the condition under which alone a rational being can be an end in himself because only through it is it possible to be a lawgiving member in the realm of ends. Thus morality, and humanity insofar as it is capable of morality, alone have dignity.<sup>4</sup>

As a matter of consistency, a person who recognizes that he or she is a moral being should ascribe dignity to anyone who, like him- or herself, is a moral being.

Although it is the capacity to behave morally that gives persons their dignity, freedom is required if a person is to act morally. For Kant, being free is more than freedom from causal necessity. This is negative freedom. Freedom in its fullest realization is the ability to guide one's actions from laws that are of one's own making. Freedom is not simply a spontaneous event. Free actions are caused, but they are caused by persons acting from laws they themselves have made. This is positive freedom. Onora O'Neill puts the point this way.

Positive freedom is more than independence from alien causes. It would be absent in lawless or random changes, although these are negatively free, since they depend on no alien causes. Since will is a mode of causality it cannot, if free at all, be merely negatively free, so it must work by non-alien causality . . . it [free will] must be a capacity for self-determination or autonomy.<sup>5</sup>

When we act autonomously we have the capacity to act with dignity. We do so when we act on principles that are grounded in morality rather

than in mere inclination. Reason requires that any moral principle that is freely derived must be rational in the sense that it is universal. To be universal in this sense means that the principle can be willed to be universally binding on all subjects in relevantly similar circumstances without contradiction. The fact that persons have this capability means that they possess dignity. And it is as a consequence of this dignity that a person "exacts respect for himself from all other rational beings in the world."<sup>6</sup> As such, one can and should "measure himself with every other being of this kind and value himself on a footing of equality with them."<sup>7</sup>

Respecting people requires honoring their humanity; which is to say it requires treating them as ends in themselves. In Kant's words,

Humanity itself is a dignity; for a man cannot be used merely as a means by any man . . . but must always be used at the same time as an end. It is just in this that his dignity . . . consists, by which he raises himself above all other beings in the world that are not men and yet can be used, and so over all *things*.<sup>8</sup>

Thomas Hill, Jr. has discussed the implication of Kant's arguments concerning human dignity at length.<sup>9</sup> Hill argues that treating persons as ends in themselves requires supporting and developing certain human capacities, including the capacity to act on reason; the capacity to act on the basis of prudence or efficiency; the capacity to set goals; the capacity to accept categorical imperatives; and the capacity to understand the world and reason abstractly.<sup>10</sup> Based on Kant's writings in the *Metaphysics of Morals*, we would make several additions to the list. There Kant argues that respecting people means that we cannot be indifferent to them. Indifference is a denial of respect.<sup>11</sup> He also argues that we have an obligation to be concerned with the physical welfare of people and their moral well being. Adversity, pain, and want are temptations to vice and inhibit the ability of individuals to



develop their rational and moral capacities.<sup>12</sup> It is these rational and moral capacities that distinguish people from mere animals. People who are not free to develop these capacities may end up leading lives that are closer to animals than to moral beings. Freedom from externally imposed adversity, pain, and want facilitate the cultivation of one's rational capacities and virtuous character. Thus, treating people as ends in themselves means ensuring their physical well being and supporting and developing their rational and moral capacities.

With respect to the task at hand, what does treating the humanity of persons as ends in themselves require in a business context—specifically in the context of global manufacturing facilities? In an earlier work Bowie has spelled out the implications of the Kantian view for businesses operating in developed countries.<sup>13</sup> Here we apply the same strategy in order to derive basic duties for MNEs operating in developing countries. Specifically, we derive duties that apply to MNEs that are utilizing the vast supplies of inexpensive labor currently available in developing economies. To fully respect a person one must actively treat his or her humanity as an end. This is an obligation that holds on every person *qua* person, whether in the personal realm or in the marketplace. As Kant writes, "Every man has a legitimate claim to respect from his fellow men and is *in turn* bound to respect every other."<sup>14</sup> There are, of course, limits to what managers of MNEs can accomplish. Nonetheless, we believe that the analysis we have provided entails that MNEs operating in developing nations have an obligation to respect the humanity of their employees. We discuss the implications of this conclusion next.

It is noteworthy that an application of the doctrine of respect for persons to the issue of the obligations of employers to employees in developing economies results in conclusions similar to the capabilities approach developed by Amartya Sen.<sup>15</sup> Over the last 20 years

Sen has argued that development involves more than an increase in people's incomes and the GNP of the country. He argues that we should be concerned with certain basic human capabilities, the most important of which is freedom. Sen's perspective is similar in important respects to our own because both are concerned with providing work that enhances the positive freedom of the worker. The United Nations utilizes both the Kantian view and the capabilities view as a dual theoretical foundation for its defense of human rights. Among the rights identified by the UN are freedom from injustice and violations of the rule of law; freedom to decent work without exploitation; and the freedom to develop and realize one's human potential. It argues that all global actors, including MNEs, have a moral obligation to respect basic human rights.<sup>16</sup> . . .

## II. OUTSOURCING AND THE DUTIES OF MNEs

One significant feature of globalization that is of particular relevance to our analysis is the increase in outsourcing by MNEs. Prior to the 1970s most foreign production by MNEs was intended for local markets. In the 1970s new financial incentives led MNEs to begin outsourcing the production of goods for North American, European, and Japanese markets to manufacturing facilities in developing countries. Encouraged by international organizations such as the World Bank and the International Monetary Fund, developing nations established "free trade zones" to encourage foreign investment via tax incentives and a minimal regulatory environment. In the 1980s the availability of international financing allowed entrepreneurs to set up production facilities in developing economies in order to meet the growing demand by



MNEs for offshore production.<sup>17</sup> Outsourcing production has many distinct advantages from the perspective of MNEs. . . . Outsourcing has been especially popular in consumer products industries, and in particular in the apparel industry. Nike, for example, outsources all of its production.

Are MNEs responsible for the practices of their subcontractors and suppliers? We believe that they are. Michael Santoro has defended the view that MNEs have a moral duty to ensure that their business partners respect employees by ensuring that human rights are not violated in the workplace. Santoro argues as follows:

multinational corporations are morally responsible for the way their suppliers and subcontractors treat their workers. The applicable moral standard is similar to the legal doctrine of *respondet superior*, according to which a principal is "vicariously liable" or responsible for the acts of its agent conducted in the course of the agency relationship. The classic example of this is the responsibility of employers for the acts of employees. Moreover, ignorance is no excuse. Firms must do whatever is required to become aware of what conditions are like in the factories of their suppliers and subcontractors, and thereby be able to assure themselves and others that their business partners don't mistreat those workers to provide a cheaper source of supply.<sup>18</sup>

We concur with Santoro's judgment and offer the following twofold justification for the view that MNEs have a duty to ensure that the dignity of workers is respected in the factories of subcontractors. First, an MNE, like any other organization, is composed of individual persons and since persons are moral creatures, the actions of employees in an MNE are constrained by the categorical imperative. This means MNE managers have a duty to ensure that those with whom they conduct business are properly respected.<sup>19</sup> Second, as Kant acknowledges, individuals have unique duties as a result of their unique circum-

stances. One key feature in determining an individual's duties is the power they have to render assistance. For example, Kant famously argues that a wealthy person has a duty of charity that an impoverished person lacks. Corollary duties apply to organizations. Researchers have noted that the relationship of power between MNEs and their subcontractors and suppliers is significantly imbalanced in favor of MNEs:

As more and more developing countries have sought to establish export sectors, local manufacturers are locked in fierce competitive battles with one another. The resulting oversupply of export factories allows U.S. companies to move from one supplier to another in search of the lowest prices, quickest turnaround, highest quality and best delivery terms, weighted according to the priorities of the company. In this context, large U.S. manufacturer-merchandisers and retailers wield enormous power to dictate the price at which they will purchase goods.<sup>20</sup>

MNEs are well positioned to help ensure that the employees of its business partners are respected because of this imbalance of power. In addition, MNEs can draw upon substantial economic resources, management expertise, and technical knowledge to assist their business partners in creating a respectful work environment.

### III. THE RULE OF LAW

Lawlessness contributes to poverty<sup>21</sup> and is deeply interconnected with human and labor rights violations. One important role that MNEs can play to help ensure that the dignity of workers is properly respected is encouraging respect for the rule of law. . . . It is commonplace for employers in developing nations to violate worker rights in the interest of economic efficiency and with the support of state institutions. Violations of laws relating

to wages and benefits, forced overtime, health and safety, child labor, sexual harassment, discrimination, and environmental protection are legion. Examples include the following:

1. Human Rights Watch reports that in Mexican maquiladoras, or export processing zones, U.S. companies such as Johnson Controls and Carlisle Plastics require female job applicants to submit to pregnancy screening; women are refused employment if they test positive. Employment discrimination based on pregnancy is a violation of Mexican law.<sup>22</sup>
2. A Guatemalan Ministry of the Economy study found that less than 30 percent of maquiladora factories that supply MNEs make the legally required payments for workers into the national social security system which gives workers access to health care. The report was not made public by the Ministry of the Economy due to its "startling" nature.<sup>23</sup>
3. An El Salvadoran Ministry of Labor study funded by the United States Agency for International Development found widespread violation of labor laws, including flagrant violation of the freedom to organize and unionize, in maquiladora factories that supply MNEs. The report was suppressed by the Ministry of Labor after factory owners complained.<sup>24</sup>
4. In North and Central Mexico widespread violation of Mexican environmental laws by MNEs and their contractors has been documented by both U.S. and Mexican nongovernmental organizations, and local Mexican governmental officials.<sup>25</sup>
5. In Haiti, apparel manufacturers such as L.V. Myles Corporation, producing clothing under license with the Walt Disney Company in several contract factories, paid workers substantially less than the Haitian minimum wage. These clothes were sold in the United States at Wal-Mart, Sears, J. C. Penney and other retailers. This practice continued until the National Labor Committee documented and publicized this violation of Haitian law.<sup>26</sup>

Furthermore, in many nations in which MNEs operate those responsible for administering justice are violators of the law. Factory workers frequently have no legal recourse when their legal rights are violated.

The intentional violation of the legal rights of workers in the interest of economic efficiency is fundamentally incompatible with the duty of MNEs to respect workers. Indifference to the plight of workers whose legal rights are systematically violated is a denial of respect. At a minimum MNEs have a duty to ensure that their offshore factories, and those of their suppliers and subcontractors, are in full compliance with local laws. Failure to honor the dignity of workers by violating their legal rights—or tolerating the violation of those rights—is also hypocritical. In Kantian terms, it constitutes a pragmatic contradiction. A pragmatic contradiction occurs when one acts on a principle that promotes an action that would be inconsistent with one's purpose if everyone were to act upon that principle. In this case, the principle would be something like the following: "It is permissible to violate the legal rights of others when doing so is economically efficient." MNEs rely on the rule of law to ensure, among other things, that their contracts are fulfilled, their property is secure, and their copyrights are protected. When violations of the legal rights of MNEs take place, MNEs and business organizations protest vociferously. Thus, MNEs rely on the rule of law to ensure the protection of their own interests. Without the rule of law, MNEs would cease to exist. Therefore, it is inconsistent for an MNE to permit the violation of the legal rights of workers while at the same time it demands that its own rights be protected.

#### IV. COERCION

We have shown why it is reasonable to believe that all persons possess dignity and that this dignity must be respected. The obligation that we respect others requires that we not use people as a means only, but instead that we treat other people as capable of autonomous law guided action. The requirement not to use

people can be met passively, by not treating them in certain ways. However, the requirement to treat them as ends in themselves entails positive obligations. We will explore these positive obligations as they relate to sweatshops in Section VI. In this section and the next, we explore the requirement that we not use people as a means only. One common way of doing so recognized by Kant is coercion. Coercion violates a person's negative freedom. Coercion is *prima facie* wrong because it treats the subjects of coercion as mere tools, as objects lacking the rational capacity to choose for themselves how they shall act.

Are sweatshops in violation of the no coercion requirement? An answer to this question depends both on the definition of the concepts in question and on the facts of the particular case. Elsewhere Arnold has provided accounts of physical and psychological coercion.<sup>27</sup> Physical coercion occurs when one's bodily movements are physically forced. In cases where one person (P) physically coerces another person (Q), Q's body is used as an object or instrument for the purpose of fulfilling P's desires. We assume that readers of this essay will agree that using physical coercion to keep people working in sweatshops against their will is disrespectful and morally wrong. While comparatively rare, physical coercion (or the threat of physical coercion) does take place. For example, at a shoe factory in Guangdong, China, it is reported that 2,700 workers were prevented from leaving the factory by 100 live-in security guards that patrolled the walled factory grounds.<sup>28</sup>

For psychological coercion to take place, three conditions must hold. First, the coercer must have a desire about the will of his or her victim. However, this is a desire of a particular kind because it can only be fulfilled through the will of another person. Second, the coercer must have an effective desire to compel his or her victim to act in a manner that makes efficacious the coercer's other

regarding desire. The distinction between an other regarding desire and a coercive will is important because it provides a basis for delineating between cases of coercion and, for example, cases of rational persuasion. In both instances a person may have an other regarding desire, but in the case of coercion that desire will be supplemented by an effective first-order desire which seeks to enforce that desire on the person, and in cases of rational persuasion it will not. What is of most importance in such cases is that P intentionally attempts to compel Q to comply with an other regarding desire of P's own. These are necessary, but not sufficient conditions of coercion. In order for coercion to take place, the coercer must be successful in getting his or her victim to conform to his or her other regarding desire. In all cases of coercion P attempts to violate the autonomy of Q. When Q successfully resists P's attempted coercion, Q retains his or her autonomy. In such cases P retains a coercive will.

In typical cases, people work in sweatshops because they believe they can earn more money working there than they can in alternative employment, or they work in sweatshops because it is better than being unemployed. In many developing countries, people are moving to large cities from rural areas because agriculture in those areas can no longer support the population base. When people make a choice that seems highly undesirable because there are no better alternatives available, are those people coerced? On the definition of coercion employed here, having to make a choice among undesirable options is not sufficient for coercion. We therefore assume that such persons are not coerced even though they have no better alternative than working in a sweatshop.

Nonetheless, the use of psychological coercion in sweatshops appears widespread. For example, coercion is frequently used by supervisors to improve worker productivity. Workers throughout the world report that they are forced



to work long overtime hours or lose their jobs. In Bangladesh, factory workers report that they are expected to work virtually every day of the year. Overtime pay, a legal requirement, is often not paid. Employees who refuse to comply are fired.<sup>29</sup> In El Salvador, a government study of maquiladora factories found that

in the majority of companies, it is an obligation of the personnel to work overtime under the threat of firing or some other kind of reprisal. This situation, in addition to threatening the health of the workers, causes family problems in that [the workers] are unable to properly fulfill obligations to their immediate family.

On some occasions, because the work time is extended into the late hours of the night, the workers find themselves obligated to sleep in the factory facilities, which do not have conditions necessary for lodging of personnel.<sup>30</sup>

Bangladesh, El Salvador, and other developing economies lack the social welfare programs that workers in North America and Europe take for granted. If workers lose their jobs, they may end up without any source of income. Thus, workers are understandably fearful of being fired for noncompliance with demands to work long overtime hours. When a worker is threatened with being fired by a supervisor unless she agrees to work overtime, and when the supervisor's intention in making the threat is to ensure compliance, then the supervisors' actions are properly understood as coercive. Similar threats are used to ensure that workers meet production quotas, even in the face of personal injury. For example, a 26-year-old worker who sews steering wheel covers at a Mexican maquila owned by Autotrim reports the following:

We have to work quickly with our hands, and I am responsible for sewing 20 steering wheel covers per shift. After having worked for 9 years at the plant, I now suffer from an injury in my right hand. I start out the shift okay, but after about 3 hours of work, I feel a lot of sharp pains in my fingers. It gets so bad that I can't hold the steering wheel correctly. But still the supervisors keep

pressuring me to reach 100 percent of my production. I can only reach about 70 percent of what they ask for. These pains began a year ago and I am not the only one who has suffered from them. There are over 200 of us who have hand injuries and some have lost movement in their hands and arms. The company has fired over 150 people in the last year for lack of production. Others have been pressured to quit. . . .<sup>31</sup>

We do not claim that production quotas are inherently coercive. Given a reasonable quota, employees can choose whether or not to work diligently to fill that quota. Employees who choose idleness over industriousness and are terminated as a result are not coerced. However, when a supervisor threatens workers who are ill or injured with termination unless they meet a production quota that either cannot physically be achieved by the employee, or can only be achieved at the cost of further injury to the employee, the threat is properly understood as coercive. In such cases the employee will inevitably feel compelled to meet the quota. Still other factory workers report being threatened with termination if they seek medical attention. For example, when a worker in El Salvador who was 3 months pregnant began hemorrhaging she was not allowed to leave the factory to receive medical attention. She subsequently miscarried while in the factory, completed her long work day, and took her fetus home for burial.<sup>32</sup> Other workers have died because they were not allowed to leave the factory to receive medical attention.<sup>33</sup> In cases where workers suffer miscarriages or death, rather than risk termination, we believe that it is reasonable to conclude that the workers are coerced into remaining at work.

According to the analysis provided here, workers choose to work in sweatshops because the alternatives available to them are worse. However, once they are employed coercion is often used to ensure that they will work long overtime hours and meet production quotas. Respecting workers requires that they be free to

decline overtime work without fear of being fired. It also requires that if they are injured or ill—especially as a result of work-related activities—they should be allowed to consult health-care workers and be given work that does not exacerbate their illnesses or injuries. Using coercion as a means of compelling employees to work overtime, to meet production quotas despite injury, or to remain at work while in need of medical attention is incompatible with respect for persons because the coercers treat their victims as mere tools. It is important to note that even if the victim of coercion successfully resisted in some way, the attempted coercion would remain morally objectionable. This is because the coercer acts as if it is permissible to use the employees as mere tools.

## V. WORKING CONDITIONS

Critics of MNEs argue that many workers are vulnerable to workplace hazards such as repetitive motion injuries, exposure to toxic chemicals, exposure to airborne pollutants such as fabric particles, and malfunctioning machinery. One of the most common workplace hazards concerns fire safety. In factories throughout the world workers are locked in to keep them from leaving the factory. When fires break out workers are trapped. This is what happened in 1993 when a fire broke out at the Kader Industrial Toy Company in Thailand. Over 200 workers were killed and 469 injured. The factory had been producing toys for U.S. companies such as Hasbro, Toys “R” Us, J.C. Penney, and Fisher-Price.<sup>34</sup> In Bangladesh alone, there have been 17 fires that have resulted in fatalities since 1995. A recent fire at Chowdhury Knitwears claimed 52 lives.<sup>35</sup>

Workers are also exposed to dangerous toxic chemicals and airborne pollutants. For example, a Nike-commissioned Ernst & Young Environmental and Labor Practices Audit of the Tae Kwang Vina factory outside Ho Chi

Minh City, Vietnam, was leaked to the press. Among the many unsafe conditions reported by Ernst & Young at this 10,000-person facility was exposure to toluene (a toxic chemical used as a solvent in paints, coatings, adhesives, and cleaning agents) at 6 to 177 times that allowed by Vietnamese law.<sup>36</sup> . . . In addition to toluene, workers at the Tae Kwang Vina factory were exposed to airborne fabric particles and chemical powders at dangerous levels. It is implausible to think that the (mainly) young women who work in the Tae Kwang Vina factory were informed about these health risks before they were hired. Ernst & Young reports that the employees received no training concerning the proper handling of chemicals after they were hired. Since that time Nike has overseen substantial health and safety improvements at the Tae Kwang Vina factory, and at the other Southeast Asian factories with which it contracts. Nonetheless, available evidence indicates that unsafe workplace conditions remain common among MNE factories.<sup>37</sup> Consider, for example, the report of Mexican maquila worker Omar Gil:

Back in 1993 I got my first job in a maquiladora, at Delphi Auto Parts. They paid 360 pesos a week (about \$40). There was a lot of pressure from the foreman on the assembly lines to work hard and produce, and a lot of accidents because of the bad design of the lines. The company didn't give us adequate protective equipment to deal with the chemicals—we didn't really have any idea of the dangers, or how we should protect ourselves. The Union did nothing to protect us.

From Delphi I went to another company, National Auto parts. In that plant we made car radiators for Cadillacs and Camaros, and there was a lot of sickness and accidents there too. I worked in the area with the metal presses. There were not ventilators to take the fumes out of the plant, and they didn't give us any gloves. We had to handle the parts with our bare hands, and people got cut up a lot. I worked in an area with a lot of lead. If you worked with lead, you're supposed to have special clothing and your clothes should be washed separately. But the company



didn't give us any of that. We had to work in our street clothes.

For all of that they paid 400 pesos a week (about \$43). We had no union, and there was the same pressure for production from the foreman and the group leaders as I saw at Delphi.

Now I work at TRW, where I've been for about a month and a half. There's really no difference in the conditions in any of these plants—if anything, my situation now is even worse.<sup>38</sup>

If our analysis is correct, then those MNEs that tolerate such health and safety risks have a duty to improve those conditions. Lax health and safety standards violate the moral requirement that employers be concerned with the physical safety of their employees. A failure to implement appropriate safeguards means that employers are treating their employees as disposable tools rather than as beings with unique dignity.

We cannot provide industry specific health and safety guidelines in the space of this essay. However, we believe that the International Labour Organization's carefully worked out *Conventions and Recommendations on safety and health* provide an excellent template for minimum safety standards.<sup>39</sup> For example, the ILO provides specific recommendations regarding airborne pollutants in "Occupational Exposure to Airborne Substances Harmful to Health" (1980) and exposure to chemicals in "Safety in the Use of Chemicals at Work" (1993). Ethicists, business people, and labor leaders with widely divergent views on a number of issues can agree on a minimum set of health and safety standards that should be in place in factories in the developing world. We return to this issue in Section VII.

## VI. WAGES

One of the most controversial issues concerning sweatshops is the demand that employers raise the wages of employees in order

to provide a "living wage." Workers from all over the world complain about low wages. For example,

employees of a maquiladora in Ciudad Acuna, Mexico, owned by the Aluminum Company of America (Alcoa), calculated that to buy the most basic food items needed by a factory worker—items such as beans, tortilla, rice, potatoes, onions and cooking oil, and excluding such "luxuries" as milk, meat, vegetables and cereal—cost U.S. \$26.87 per week. At the time, weekly wages at the plant ranged only from \$21.44 to \$24.60.<sup>40</sup>

While a living wage is difficult to define with precision, one useful approach is to use a method similar to that used by the U.S. government to define poverty. This method involves calculating the cost of a market basket of food needed to meet minimum dietary requirements and then adding the cost of other basic needs. The Council on Economic Priorities uses this approach to define a wage that meets basic needs in different countries. Their formula is as follows:

1. Establish the local cost of a basic food basket needed to provide 2100 calories per person.
2. Determine the share of the local household income spent on food. Divide into 1 to get total budget multiplier.
3. Multiply that by food spending to get the total per person budget for living expenses.
4. Multiply by half the average number of household members in the area. (Use a higher share if there are many single-parent households.)
5. Add at least 10 percent for discretionary income.<sup>41</sup>

The United Nations Development Programme employs a similar method to distinguish between three different levels of poverty (see Table 1).<sup>42</sup>

It is our contention that, at a minimum, respect for employees entails that MNEs and their suppliers have a moral obligation to ensure that employees do not live under conditions of overall poverty by providing adequate wages for a 48-hour workweek to satisfy both basic



TABLE 1

Types of Poverty	Deficiencies	Measures
Extreme Poverty (also known as Absolute Poverty)	Lack of income necessary to satisfy basic food needs	Minimum caloric intake and a food basket that meets that requirement
Overall Poverty (also known as Relative Poverty)	Lack of income necessary to satisfy basic nonfood needs	Ability to secure shelter, energy, transportation, and basic health care
Human Poverty	Lack of basic human capabilities	Access to goods, services, and infrastructure

food needs and basic nonfood needs. Doing so helps to ensure the physical well-being and independence of employees, contributes to the development of their rational capacities, and provides them with opportunities for moral development. This in turn allows for the cultivation of self-esteem.<sup>43</sup> It is difficult to specify with precision the minimum number of hours per week that employees should work in order to receive a living wage. However, we believe that a 48-hour workweek is a reasonable compromise that allows employees sufficient time for the cultivation of their rational capacities while providing employers with sufficient productivity. In addition, MNEs and their suppliers have an obligation to pay appropriate host nations taxes and meet appropriate codes and regulations to ensure that they contribute in appropriate ways to the creation and maintenance of the goods, services, and infrastructure necessary for the fulfillment of human capabilities. Anything less than this means that MNEs, or their suppliers, are not respecting employees as ends in themselves.

## VII. ECONOMIC CONSIDERATIONS

... In a recent paper, Ian Maitland criticizes both the labor and human rights activists who have accused MNEs of unjust labor practices, as well as MNEs, such as Nike, that have re-

sponded by acquiescing to some of the activists' demands.<sup>44</sup> ... In addition to assessing the veracity of claims regarding worker exploitation, he sets out to determine "the ethically appropriate levels of wages and labor standards in international sweatshops."<sup>45</sup> He argues that philosophers ... who object to letting market determinations alone set wage standards, are misguided on the grounds that "attempts to improve on market outcomes may have unforeseen tragic consequences."<sup>46</sup> Maitland's arguments regarding ethically appropriate levels of wages and labor standards may be summarized as follows:

1. Workers in the urban, formal sector of developing nations earn better wages than do workers in the rural, informal sector.
2. The imposition of wages or labor standards greater than that demanded by the market increases costs.
3. Increased costs result in layoffs and slow investment in the formal sector.
4. Formal sector layoffs result in a surplus supply of labor in the informal sector.
5. A surplus of informal sector workers depresses income in the informal sector.

**Conclusion:** higher wages or labor standards increase poverty and limit economic growth in developing nations.

Appealing as it does to textbook economic theory, Maitland's conclusion retains an authoritative quality. Naive critics of MNEs fail

to take into consideration rudimentary economic theory, and cynical corporate managers ignore these economic realities in order to preserve their brand images and corporate reputations. Maitland has done a valuable service by raising issues of central importance to the welfare of millions of powerless and impoverished people. However, is his conclusion correct? In the remaining portion of essay we argue that it is not.

First, despite his faith in the ability of international markets alone to generate ethically acceptable wage and labor standards for MNEs and their contractors . . . Maitland does not himself defend an unrestricted market approach. It is not clear, however, that Maitland recognizes this fact. The most obvious evidence in support of this conclusion is his criticism of corporate managers who, he believes, merely seek to appease their critics. "Not a single company has tried to mount a serious defense of its contracting practices. They have judged that they cannot win a war of soundbites with the critics. Instead of making a fight of it, the companies have sued for peace in order to protect their principal asset—their image."<sup>47</sup> Thus, according to Maitland, corporate managers have made the strategic decision to respond to market forces—in this case consumers' preferences and other marketing considerations—in the manner they deem most consistent with profitability. Given Maitland's faith in the free market, one might expect him to criticize this strategy because it is inefficient.<sup>48</sup> However, Maitland does not pursue this approach. Instead, he argues that managers should not appease their critics—even if managers regard this as the strategy most consistent with profitability—because doing so will have undesirable economic and moral outcomes, namely, higher unemployment and slower economic growth. There is, then, a contradiction at the heart of Maitland's analysis. He argues in favor of improvements to current market outcomes, while at the same time he argues against

attempts to improve on market outcomes on the grounds that doing so will result in undesirable moral consequences.<sup>49</sup>

Second, some of the most compelling evidence in support of the proposition that MNEs can improve workplace health and safety conditions while avoiding "tragic outcomes" comes from MNEs themselves. Companies such as Levis Strauss, Motorola, and Mattel have expended considerable resources to ensure that employees in their global sourcing operations work in healthy and safe environments. For example, Levis Strauss & Company stipulates that "We will only utilize business partners who provide workers with a safe and healthy environment."<sup>50</sup> Levis is known for acting in a manner consistent with this policy. Motorola explicitly endorses the idea of respect for persons in their Code of Business Conduct. The Code is built on two foundations:

**Uncompromising integrity** means staying true to what we believe. We adhere to honesty, fairness and "doing the right thing" without compromise, even when circumstances make it difficult.

**Constant respect for people** means we treat others with dignity, as we would like to be treated ourselves. Constant respect applies to every individual we interact with around the world.<sup>51</sup>

The physical instantiation of these principles can be seen at a Motorola's factory in Tianjin, China:

In the company cafeteria, workers queue up politely for a variety of free and nutritious meals. One area is set aside for a pregnancy well-care program. A booth is open at which appointments can be made with the company medical staff. There is a bank branch dedicated to employee needs. It is a scene that one might expect in a Fortune 500 corporate campus in the United States. The overwhelming sense is of a pleasant, orderly place in which people are fulfilled in their work.<sup>52</sup>

Recently Mattel announced the creation of a global code of conduct for its production

facilities and contract manufactures. It has spent millions of dollars to upgrade its manufacturing facilities in order to improve worker safety and comfort. Furthermore, it has invited a team of academics lead by S. Prakash Sethi to monitor its progress in complying with its self-imposed standards and to make their findings public.<sup>53</sup> This is believed to be the first time that a major MNE has voluntarily submitted to external monitoring. The examples set by Levis, Motorola, and Mattel provide evidence that MNEs are capable of improving worker health and safety without causing further hardship in the communities in which they operate.

Finally, it is not clear that improving employee wages will inevitably lead to the "tragic consequences" that Maitland and others predict. The economic issues under consideration are complex and we cannot address them here in the detail they deserve. Nonetheless, several reasons may be provided for thinking that Maitland's conclusion is incorrect. With regard to the lowest paid formal sector wage earners in developing countries, the assumption that productivity is independent of wage levels is dubious.

As exceptionally low wages are raised, there may be increases in productivity either because of induced management improvements or because of greater labour efficiency due to a decrease in wasteful labour turnover and industrial disputes and to improvements in workers morale and nutrition resulting, in turn, in an increase in the workers willingness and capacity to work and a reduction in the incidence of debilitating diseases, time off due to illness and accidents caused by fatigue. If higher wages, at least over a certain range, are accompanied by certain improvements in labour productivity, it is conceivable that labour costs could decrease rather than increase and to such an extent that employment would not fall.<sup>54</sup>

Put simply, workers whose minimum daily caloric intakes are met, and who have basic

nonfood needs met, will have more energy and better attitudes at work; will be less likely to come to work ill; and will be absent with less frequency. Workers are thus likely to be more productive and loyal. Economists refer to a wage that if reduced would make the firm worse off because of a decrease in worker productivity as the efficiency wage. Empirical evidence supports the view that increased productivity resulting from better nutrition offsets the cost of higher wages.<sup>55</sup> Thus, if workers are being paid less than the efficiency wage in a particular market there are good economic reasons, in addition to moral reasons, for raising wages. Higher productivity per hour could also help alleviate the need for overtime work and facilitate a 48-hour workweek.

One might object that our analysis implies that MNE managers are unaware of the correlation between wages and productivity, and that such ignorance on the part of MNE managers is implausible. Our reply is twofold. First, workers in developing nations *are* frequently paid less than the efficiency wage in those labor markets. Second, findings from an El Salvadoran Ministry of Labor study of maquiladora factories are instructive. Researchers found that "According to the production managers interviewed, some companies use North American and Asian efficiency and productivity levels as a parameter for establishing production goals, without considering the different nutritional conditions and technical capacity of our workers."<sup>56</sup> We believe that such erroneous assumptions have been widespread among MNE managers.

Part of Maitland's analysis rests on the assumption that increased labor costs will inevitably result in higher unemployment in competitive markets. Maitland is correct to identify this view as a common belief among many economists, especially as it relates to minimum wage legislation.<sup>57</sup> However, this view has been challenged in recent years. In their influential recent book-length study of the



impact of minimum wage increases on employment, David Card and Alan Krueger argue that their reanalysis of the evidence from the United States, Canada, the United Kingdom, and Puerto Rico indicates that the existing data do not provide compelling evidence for the textbook view.<sup>58</sup> In addition, Card and Krueger analyzed new data for recent increases in the minimum wage in the United States. Their analysis is complex, but the results of their analysis are straightforward. "In every case . . . the estimated effect of the minimum wage was either zero or positive."<sup>59</sup> Increased labor costs appear to have been passed on to consumers in the form of higher prices without increasing unemployment. Again, these data undermine the textbook view regarding the impact of increases in the minimum wage. Economist Richard Freeman summarizes the impact of Card and Krueger's work as follows:

the Card-Krueger work is essentially correct: the minimum wage at levels observed in the United States has had little or no effect on employment. At the minimum, the book has changed the burden of proof in debates over the minimum, from those who stressed the potential distributional benefits of the minimum to those who stress the potential employment losses.<sup>60</sup> After evaluating recent work on the impact of minimum wages, economists William Spriggs and John Schmitt reached a more determinate conclusion: "The overwhelming weight of recent evidence supports the view that low-wage workers will benefit overwhelmingly from a higher federal minimum."<sup>61</sup>

Two points concerning wages should be distinguished. First, conclusions concerning the impact of U.S. minimum wage legislation on unemployment cannot automatically be assumed to apply to developing nations. Careful study of the unique conditions of those labor markets is necessary before corollary claims can be assessed. Nonetheless, the textbook view rests significantly on studies concerning the U.S. labor market. As such, we believe that

the burden of proof remains with those who maintain that increased labor costs must inevitably result in higher unemployment. Second, we wish to emphasize that we are not taking a position in this essay on increasing federally mandated minimum wages in developing nations. Rather, our contention is that it is economically feasible for MNEs to voluntarily raise wages in factories in developing economies without causing increases in unemployment. MNEs may choose to raise wages while maintaining existing employment levels. Increased labor costs that are not offset by greater productivity may be passed on to consumers, or, if necessary, absorbed through internal cost cutting measures such as reductions in executive compensation.

## VIII. CONCLUSION

As Kant argues, it is by acting in a manner consistent with human dignity that persons raise themselves above all things. Insofar as we recognize the dignity of humanity, we have an obligation to respect both ourselves and others.<sup>62</sup> We have argued that MNE managers that encourage or tolerate violations of the rule of law; use coercion; allow unsafe working conditions; and provide below subsistence wages, disavow their own dignity and that of their workers. In so doing, they disrespect themselves and their workers. Further, we have argued that this moral analysis is not undermined by economic considerations. Significantly, MNEs are in many ways more readily able to honor the humanity of workers. This is because MNEs typically have well-defined internal decision structures that, unlike individual moral agents, are not susceptible to weakness of the will.<sup>63</sup> For this reason, MNE managers who recognize a duty to respect their employees, and those of their subcontractors, are well positioned to play a constructive role in ensuring that the dignity of humanity is respected.

## NOTES

1. See, for example, Susan Chandler, "Look Who's Sweating Now," *BusinessWeek* (October 16, 1995); Steven Greenhouse, "Sweatshop Raids Cast Doubt on an Effort By Garment Makers to Police the Factories," *New York Times* (July 18, 1997); and Gail Edmondson et al., "Workers in Bondage," *BusinessWeek* (November 27, 2000).
2. For the purposes of this paper we define the term as any workplace in which workers are typically subject to two or more of the following conditions: income for a 48-hour workweek less than the overall poverty rate for that country (see Table 1); systematic forced overtime; systematic health and safety risks that stem from negligence or the willful disregard of employee welfare; coercion; systematic deception that places workers at risk; and underpayment of earnings.
3. Immanuel Kant, *Foundations of the Metaphysics of Morals*, trans. Lewis White Beck (New York: Macmillan, 1990), 46.
4. Kant, *Foundations of the Metaphysics of Morals*, p. 52.
5. Onora O'Neill, *Constructions of Reason* (Cambridge: Cambridge University Press, 1989), 53.
6. Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1991), 230.
7. Ibid.
8. Ibid., 255.
9. Thomas Hill, Jr., *Dignity and Practical Reason in Kant's Moral Theory* (Ithaca: Cornell University Press, 1992).
10. Ibid., 40–41.
11. Kant, *Metaphysics of Morals*, p. 245.
12. Ibid., 192–93 and 196–97.
13. Norman E. Bowie, *Business Ethics: A Kantian Perspective* (Malden, MA: Blackwell, 1999). See pp. 41–81 for further discussion of the second categorical imperative.
14. Kant, *Metaphysics of Morals*, p. 255.
15. Her latest book is *Development as Freedom* (New York: Anchor Books, 1999). Martha Nussbaum has developed her own version of the capabilities approach, one that pays particular attention to the unique circumstances of women's lives. *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).
16. United Nations Development Programme, *Human Development Report 2000* (New York: Oxford University Press, 2000).
17. Pamela Varley, ed., *The Sweatshop Quandary: Corporate Responsibility on the Global Frontier* (Washington DC, Investor Responsibility Research Center, 1998), 185–86.
18. Michael A. Santoro, *Profits and Principles: Global Capitalism and Human Rights in China* (Ithaca: Cornell University Press, 2000), 161.
19. For a fuller discussion of this matter, see Bowie, *Business Ethics: A Kantian Perspective*, esp. chap. 2.
20. Varley, ed., *The Sweatshop Quandary*, p. 95.
21. Better rule of law is associated with higher per capita income. See *World Development Report 2000/2001: Attacking Poverty* (New York: Oxford University Press, 2000), 103.
22. Human Rights Watch, "A Job or Your Rights: Continued Sex Discrimination in Mexico's Maquiladora Sector," 10 (1)(B) December 1998. Available at <http://www.hrw.org/reports98/women2/>
23. Varley, ed., *The Sweatshop Quandary*, p. 131.
24. Republic of El Salvador, Ministry of Labor, Monitoring and Labor Relations Analysis Unit, "Monitoring Report on Maquilas and Bonded Areas" (July 2000). Available at <http://www.nlcnet.org/elsalvador/0401/translation.htm>
25. Edward J. Williams, "The Maquiladora Industry and Environmental Degradation in the United States–Mexican Borderlands." Paper presented at the annual meeting of the Latin American Studies Association, Washington, DC, September 1995. Available at <http://www.natlaw.com/pubs/williams.htm>. See also, Joan Salvat, Stef Soetewey, and Peter Breuls, *Free Trade Slaves*, 58 min. (Princeton, NJ: Films for the Humanities and Sciences, 1999), videocassette.
26. National Labor Committee, "The U.S. in Haiti: How to Get Rich on 11 Cents an Hour" (1995). Available at <http://www.nlcnet.org/Haiti/0196/index.htm>
27. Denis G. Arnold, "Coercion and Moral Responsibility," *American Philosophical Quarterly* 38 (2001): 53–67. The view of psychological coercion employed here is a slightly revised version of the view defended in that essay. In particular, the condition that cases of psychological coercion always involve psychological compulsion has been replaced with the condition that cases

- of psychological coercion always involve the victim's compliance with the threat.
28. Varley, ed., *The Sweatshop Quandary*, p. 72.
  29. Barry Bearak, "Lives Held Cheap In Bangladesh Sweatshops," *New York Times* (April 15, 2001).
  30. Republic of El Salvador, Ministry of Labor, Monitoring and Labor, Relations Analysis Unit, "Monitoring Report on Maquilas and Bonded Areas."
  31. Varley, ed., *The Sweatshop Quandary*, p. 68.
  32. Salvat et al., *Free Trade Slaves*.
  33. Ibid.
  34. Varley, ed., *The Sweatshop Quandary*, p. 67.
  35. Bearak, "Lives Held Cheap in Bangladesh Sweatshops."
  36. "Ernst & Young Environmental and Labor Practice Audit of the Tae Kwang Vina Industrial Ltd. Co., Vietnam." Available at <http://www.corpwatch.org/trac/nike/ernst/audit.html>
  37. See, for example, Varley, ed., *The Sweatshop Quandary*, esp. pp. 59–98.
  38. Campaign for Labor Rights, "The Story of a Maquiladora Worker: Interview with Omar Gil by David Bacon," (September 6, 2000). Available at <http://www.summersault.com/~agj/clr/alerts/thestoryofamquiladoraeworker.html>
  39. International Labour Organization, "SafeWork: ILO Standards on Safety and Health." Available at <http://www.ilo.org/public/english/protection/safework/standard.htm>
  40. After the complaint was raised in a shareholder meeting, Alcoa raised the wages of the workers by 25 percent. Pamela Varley, ed., *The Sweatshop Quandary*, p. 63.
  41. Aaron Bernstein, "Sweatshop Reform: How to Solve the Standoff," *BusinessWeek* (May 3, 1999).
  42. *Poverty Report 2000: Overcoming Human Poverty* (New York: United Nations Development Programme, 2000).
  43. Self-esteem is grounded in the conscious recognition of one's dignity as a rational being.
  44. Ian Maitland, "The Great Non-Debate Over International Sweatshops," reprinted in *Ethical Theory and Business*, 6th ed., ed. Tom L. Beauchamp and Norman E. Bowie (Englewood Cliffs: Prentice Hall, 2001), 595. First published in *British Academy of Management Conference Proceedings* (September 1997): 240–65.
  45. Ibid.
  46. Ibid., 603.
  47. Ibid., 594.
  48. Such an argument would likely maintain that corporate managers fail to recognize that a public relations strategy that includes higher wages and improved workplace standards is more costly than an alternative strategy that does not. The details of such a strategy would then need to be worked out.
  49. Maitland, "The Great Non-Debate Over International Sweatshops," p. 602.
  50. Ibid., 539.
  51. Motorola, "Code of Business Conduct." Available at <http://www.motorola.com/code/code.html>
  52. Santoro, *Profits and Principles*, p. 6.
  53. S. Prakash Sethi, "Codes of Conduct for Multinational Corporations: An Idea Whose Time Has Come," *Business and Society Review* 104, no. 3 (1999): 225–41.
  54. Gerald Starr, *Minimum Wage Fixing* (Geneva: International Labour Organization, 1981), 157.
  55. C. J. Bliss and N. H. Stern, "Productivity, Wages, and Nutrition, 2: Some Observations." *Journal of Development Economics* 5 (1978): 363–98. For theoretical discussion, see C. J. Bliss and N. H. Stern, "Productivity, Wages, and Nutrition, 1: The Theory." *Journal of Development Economics*, 5 (1978): 331–62.
  56. Republic of El Salvador, Ministry of Labor, Monitoring and Labor Relations Analysis Unit, "Monitoring Report on Maquilas and Bonded Areas." Available at <http://www.nlcnet.org/elsalvador/0401/translation.htm>
  57. See, for example, the essays collected in Simon Rottenberg, ed., *The Economics of Legal Minimum Wages* (Washington DC: The American Enterprise Institute, 1981).
  58. See David Card and Alan B. Krueger, *Myth and Measurement: The New Economics of the Minimum Wage* (Princeton: Princeton University Press, 1995). See also the special symposium on *Myth and Measurement in Industrial & Labor Relations Review* (July 1995) with contributions by Charles Brown, Richard Freeman, Daniel Hamermesh, Paul Osterman, and Finis Welch; David Neumark and William Wascher, "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in



- New Jersey and Pennsylvania: Comment," *American Economic Review* (December 2000): 1362-96; and David Card and Alan B. Krueger, "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania: Reply," *American Economic Review* (December 2000): 1397-1420. For a discussion of the living wage issue in the context of the U.S. economy, see Robert Pollin and Stephanie Luce, *The Living Wage: Building a Fair Economy* (New York: The New Press, 1998).
59. Card and Krueger, *Myth and Measurement*, p. 389.
  60. Richard B. Freeman, "In Honor of David Card: Winner of the John Bates Clark Medal," *Journal of Economic Perspectives* (Spring 1997): 173.
  61. William Spriggs and John Schmitt, "The Minimum Wage: Blocking the Low-Wage Path," in Todd Schafer and Jeff Faux, *Reclaiming Prosperity: A Blueprint for Progressive Economic Reform* (Armonk, NY: ME Sharpe, 1996), 170.
  62. Kant, *Foundations of the Metaphysics of Morals*, p. 255.
  63. For a fuller defense of this position see Peter A. French, *Corporate Ethics* (Fort Worth, TX: Hartcourt Brace: 1995), pp. 79-87.
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