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Fabrication: Corporate and governmental crime in the apparel Industry

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Fabrication: Corporate and Governmental Crime in the Apparel Industry

by

Danielle McGurrin

A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
Department of Criminology
College of Arts and Sciences
University of South Florida

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Fabrication: Corporate and Governmental Crime in the Apparel Industry

Danielle McGurrin

ABSTRACT

The purpose of this dissertation is to examine both the gendered and racialized nature of workplace risk and compensation in the manufacturing industry of apparel. The author selects this industry because of its low-wage, labor intensive, and “deskilled” work, performed in often unsafe employment environments with minimal governmental regulations and limited unionization. The apparel industry is also characterized by its large percentage of racial and ethnic minorities, especially immigrant employees, that further disadvantage them in terms of communication barriers, threat of deportation, and the multiple and intersecting marginalizations associated with occupying a low-wage, minority and/or immigrant status. The gendered effects of workplace risk are addressed in the garment industry, as women and girls largely comprise these workers.

Using governmental data, including Occupational Safety and Health Administration (OSHA) and Bureau of Labor Statistics (BLS) data, the author measures the incidences, rates, and demographic characteristics associated with workplace injuries and illnesses for the years 1993-2002. In addition to occupational injuries and illnesses in these industries, the author examines Department of Labor, Wage and Hour Division data to examine the incidences and types of compensation violations from the years 1993-2002. Finally, the author examines the limitations of government safety and

compensation regulations and enforcement, and the corrective measures that are needed to uphold and safeguard the occupational health, safety, and compensation rights of these workers.

Introduction

Serious contradictions exist between our human needs and our economic system, a system whose primary goal is to maximize profits regardless of the waste, cost, and hazards. We see that government is an insufficient bulwark against the baneful effects of giant corporate capitalism and often a willing handmaiden.

From Michael Parenti's *Democracy for the Few* (1995:119)

The purpose of the present study is to examine governmental and corporate malfeasance in the apparel industry within the context of an historical, economic, and socio-political theoretical framework. Utilizing these lenses, I seek to uncover the rationales and processes through which the government and the apparel industry have helped facilitate and perpetuate the American and global sweatshop. More specifically, I attempt to explain how the intersections of gender, race, ethnicity, and immigration status have impacted worker remuneration, occupational injuries and illnesses, and other working conditions in the apparel industry.

In Chapter One, I begin with the El Monte, CA case study that highlights the abuses associated with modern-day sweatshops. I provide State as well as scholarly definitions of what constitutes a sweatshop, as well as operationalize the apparel industry under study. Next, I trace the evolution of garment production in the U.S. from the late 18th century, highlighting its early gender division of labor, multiple ethnic transformations, and many work hazards. Then, I introduce the role of unions in combating the conditions of the early American sweatshop. It is here where I introduce the first qualitative research question that asks: Did size of and participation in union

activity influence better working conditions for apparel workers?

In the second half of Chapter One, I examine New Deal worker reforms, and the subsequent Cold War freeze on the labor gains of the 1930's and 1940's. From here, I discuss the origins of global capitalism in the Pacific Rim in the textile and apparel industries, and its relationship to post-World War II U.S. foreign policy objectives. Chronicling each post-War presidency through the Johnson Administration, this section demonstrates how key decision-making on issues surrounding protectionism, economic trade liberalization, and industrial restructuring, hastened capital flight and low wage imports in the apparel industry.

Shifting the focus from global capitalism in the East, this section emphasizes the Reagan and Bush Administrations' efforts to privatize the global South outside the U.S., while promoting deregulation and deindustrialization at home throughout the 1980's and early 1990's. Specific policies significant to apparel are addressed including export processing zones and its impact on the safety, health, economic and other employment conditions of domestic and global apparel workers. To this end, I pose my second qualitative research question that asks: Did corporate globalization have a negative impact on working conditions for domestic and global apparel workers? (Given the ongoing and expanding nature of corporate globalization, this research question also addresses the present-day impact of corporate globalization).

In the final section of Chapter One, I introduce the reader to present-day “free trade” organizations and agreements that with few exceptions have nailed the coffin on domestic apparel employment and wage sustainability. The effects of the North American Free Trade Agreement (NAFTA), the World Trade Organization (WTO), and the Free Trade of the Americas (FTAA) are discussed in detail.

In Chapter Two, I take the reader inside the apparel commodity chain. The purpose of this chapter is to analyze how the structure and organization of the apparel industry, its culture, and its practices, all help facilitate and sustain the American and global sweatshop. In the first half of this chapter, I provide an overview of the apparel industry including a detailed examination of retailers, manufacturers/jobbers, contractors/subcontractors, and workers.

In the second half of this chapter, I provide a theoretical rationale for the gendered nature of corporate and governmental crime in the apparel industry. Given the significance of gender in understanding employment opportunities and working conditions, I place my third qualitative research questions here: Does the apparel industry and the State engage in the hyper-exploitation of gender to further each of their respective interests?

In Chapter Three, I examine the political economy of worker health and safety legislation in America. Given the relationship between safety and health legislation and occupational injuries and illnesses, I pose my fourth and final qualitative research question here: Did State regulation impact occupational injuries and illnesses in the apparel industry?

The chapter begins with the meager beginnings of worker health and safety legislation from 1850 to 1950. Next, I discuss the groundwork of the 1960's leading up to the passage of the Occupational Safety and Health Act in 1970. The chapter then explores the uneven early years of the OSH Act during the Nixon, Ford and Carter Administrations, as well as the deregulation years of the Reagan and Bush Administrations. During the 1990's, OSHA is discussed within the paradoxical political environment of unprecedented corporate globalization and a reformist Presidential Administration. Last in this section, is the stamp of President George W. Bush on worker health and safety legislation.

The last section of chapter three explores OSHA's inspection, enforcement, and penalty assessments for civil and criminal workplace violations. Limitations with each are addressed, as are the limitations associated with Department of Justice (DOJ) referrals, and their limited response to the prosecution of willful violations.

Chapter Four describes the chronic problem of regulatory sabotage in negating safe and healthy workplaces, with specific examples addressing the apparel industry. The chapter also calls attention to the linguistic tools and regulatory practices that disguise corporate law breaking, as well as disguise the government's failure to uphold its legal obligations in protecting worker safety and health. Specific issues related to the WHD and OSHA are addressed.

Chapter Five provides first the qualitative research method employed in the first half of the dissertation. Using an historical-comparative approach, I define the methodology and provide a rationale for why I selected this type of research. Key variable concepts from the four qualitative research questions are operationalized, and the

strengths and limitations of this research are addressed.

The second portion of the methods section in chapter five discusses the quantitative methodology employed in the present study. The quantitative data are employed to provide a contemporary context to the historical comparative analysis. Using secondary data from government sources, I explain the appropriateness of such a selection in studying occupational injuries, illnesses, and compensation in the apparel industry. Next, I discuss the sources used to obtain data for the secondary data analysis, and the strengths and limitations of each.

Seven quantitative research questions are posed in this section, with key variable definitions provided for each of the hypotheses. The quantitative research questions ask: (1) Is there a correlation between the Employment Standards Administration (ESA) annual budget and the number of Wage and Hour Division (WHD) cases that are conducted each year in the apparel industry? (2) Is there a correlation between the WHD budget and the number of annual WHD investigators? (3) Is there a correlation between the number of WHD investigators and the number of WHD cases that are conducted each year? (4) Is there a correlation between the number of Occupational Safety and Health Administration (OSHA) apparel industry inspections and the annual occupational injury and illness rate? (5) Is there a correlation between OSHA's annual budget and the number of annual OSHA apparel industry inspections? (6) Did the number of domestic apparel workers decline during the period under study? (7) Did Apparel and Textile Industry profits increase during the period under study? (8) Is there a correlation between Apparel and Textile Industry profits and the Apparel Production Capacity Index? and (9) Has the rate of exploitation of apparel workers increased during the period under study?

In Chapter Six, I provide the results and discussion for the quantitative research component of this dissertation. This chapter provides apparel industry summary data on occupational injuries and illnesses, employee and job characteristics, and regulatory statistics on OSHA and WHD, the two primary state agencies responsible for enforcing labor laws in the apparel industry. Examining the years 1993-2002, I contextualize the seemingly surprising reported decline of occupational injuries and illnesses in the apparel industry with the more predictable findings of fewer OSHA inspections in the apparel industry, and an increase in apparel worker exploitation.

In the Conclusion section, I tie together the findings of the qualitative and quantitative research questions, and summarize the substantive issues plaguing apparel industry labor conditions. Finally, future research and policy recommendations for improving the health, safety, and compensation of apparel workers are discussed.

Chapter One

The Birth, Decline, and Resurrection of the American Sweatshop in Historical Context

In August 1995, in El Monte California, federal and state police agents raided an apartment complex believed to be involved in running an illegal sweatshop operation. What the agents found would become one of the most publicized and horrifying cases of indentured servitude in modern American history. Inside the El Monte compound were seventy-two Thai garment workers, mostly women, many of whom had been held in near-slavery for up to seven years sewing clothes for some of the nation's top retailers and manufacturers including Macy's, Nordstrom, Neiman Marcus, and Target/Dayton Hudson, to name a few (Su 1997).

Recruited from their impoverished communities in Thailand with promises of a better life, a decent job and pay, the homeworkers quickly learned upon arrival at the complex east of downtown LA, that their lives were about to take a drastic turn for the worse. Forced by their contractors to sew between sixteen and eighteen hours a day, for between sixty-nine cents and less than \$2 an hour, the El Monte workers were trapped quite literally in a vicious cycle that would not permit their freedom until they paid off the supposed debt of their transportation to the United States (Boncich and Appelbaum 2000; Liebhold and Rubenstein 2003 in Bender and Greenwald).

Although many workers had already paid their recruiters approximately \$5,000 (USD) prior to beginning their work in the United States, (Louie 2001), the workers were

acutely vulnerable to further exploitation largely because of their status as primarily young, newly arrived, undocumented, immigrant women (and men). In addition to paying off their so-called transportation debt, the workers were forced to purchase all of their food, toiletry, and other daily necessities from their captors who charged four to five times the market price.

Unable to escape, contractors hawkishly supervised garment production, and enforced clothing manufacturer specifications and deadlines, through constant physical and verbal intimidation, including threats of rape and murder (Su 1997; and Lieurance 2003). Exhausted and afraid for their lives, the workers could hardly be expected to slumber in their few hours of rest, as they crowded eight to ten into bedrooms built for two, and lived nightly with rats crawling over their bodies. Confined by doors that locked from the outside to keep workers in (Louie 2001), closely monitored by abusive contractors, and surrounded by armed guards in a compound girded by razor wire and iron guardrails (Su 1997), the labor conditions endured by the workers were more characteristic of a Soviet gulag than a description of a late, twentieth-century American workplace.

While the workers momentarily gained their freedom that day on August 2, 1995, they would be imprisoned a second time by the Immigration and Naturalization Service (INS) for nine more days while the federal government decided whether or not to deport the enslaved workers back to Thailand. While in custody, the Thai workers were forced to wear yellow prison uniforms, and were shackled whenever they were transported (Volpp 2002). Pressured by tireless *Sweatshop Watch* activist members, including the *Asian Pacific American League Center (APALC)*, the *Thai Community Development*

Center (TCDC), the *Korean Immigrant Workers Advocates* (KIWA), local attorneys, and an uncomfortable media spotlight, the federal government finally granted the Thai workers legal residency with the right to work in the U.S., in 1996 (Louie 2001; and Liebhold and Rubenstein 2003, p. 59-60)

In February, 1996, eight of the ten contractors of the El Monte “slaveship” pleaded guilty in Federal court to conspiracy, smuggling and harboring illegal immigrants, and involuntary servitude (Liebhold and Rubenstein 2003). As with most occupational crime sentences, the penalties were light compared to the severity of the crimes, and the harm imposed to the victims. All of the sentences ranged between two to seven years, and a fine totaling \$250,000 (ibid 2003).

The workers filed a class action lawsuit with other local sweatshop victims harmed by the same owners <s>2. In 1999, the 150 workers won over \$4 million from 11 of the major companies that were contracting with the operators who had flagrantly and viciously flouted multiple U.S. criminal, health, safety, and labor laws.

What is perhaps most disturbing about the El Monte case is that it is only one example of the widespread sweatshop abuse cases that occur in the U.S. (and all over the globe). Despite significant improvements in the overall health, safety, and labor conditions in most American workplaces throughout the twentieth century, workers in the front-line of garment assembly still face many of the same deplorable labor conditions that their predecessors did well over one hundred years ago. The extent of this problem is discussed more completely in chapter two.

Defining Sweatshops

Its small shops, with little capital investment, including weak infrastructure and low technology, characterize garment production. Because the industry lacks the technological hardware, production is compensated by the sweated labor of its workers. Fueled by the sporadic and irregular demand of the fashion industry, workers in a sweatshop often toil as long as eighteen hours each day without a day off for weeks during the peak season, only to be fired or laid off, during the off-season.

The General Accounting Office (1994:1) defines a sweatshop as “a business that violates more than one federal or state law governing wages and hours, child labor, health or safety, workers’ compensation, or industry registration.” Unknown to most, federal laws and regulations do not define a sweatshop. Instead, state and federal governments rely upon a patchwork of criminal, labor, health, safety, and compensation laws and regulations to manage crimes and civil violations in the workplace.

In contrast to the GAO definition, some sweatshop scholars define a sweatshop as a “specific organization of work” characterized by “very low fixed costs” (Piore 1997:136). These fixed costs including rent, electricity, heat, health and safety precautions, etc., that are normally held to a minimum by operating substandard, overcrowded, and unhealthy factories, overseen by a contractor or subcontractor. In apparel sweatshops, lowering labor costs is the primary way that contractors compete for razor thin profit margins.

In order to reduce labor costs to the lowest possible level, garment workers are normally paid by the number of sewing operations performed, otherwise known as the “piece rate” (Bonacich and Appelbaum 2000). Although U.S. federal law requires contractors to pay minimum wage and overtime to employees even when the worker’s

output falls below the minimum, contractors routinely manipulate the price of the piece rate, so that workers are paid far less than minimum wage (ibid. 2000).

Perhaps the broadest definition of a sweatshop includes factories or shops that fail to pay their employees a living wage. As Bonacich and Appelbaum (2000:4) contend, “even if a factory follows the letter of the law in every detail, workers may [still] suffer abuse, job insecurity and poverty. At a minimum then, a living wage would include a wage that allows a family to support itself at an adequate standard of living (defined by the prevailing cost of living in a given area), including decent housing, in accordance with the local housing market and health insurance coverage for the entire family.” (ibid 2000). As we will see in the following chapter, most apparel industry employees are in the bottom 10 percent of all U.S. wage earners, making them among the most poorly paid of American workers.

Before going to the next section, for the purposes of this dissertation, given the reliance on governmental data in measuring the key variables for this study, a sweatshop will be defined using the GAO’s definition (1994:1) categorizing a sweatshop as “a business that violates more than one federal or state law governing wages and hours, child labor, health or safety, workers’ compensation, or industry registration.

From the Home to the Sweatshop: A Brief History of the Garment Industry in the U.S.

The emergence of garment production in the U.S. has essentially two distinct but interrelated histories. The first garment history is that of the textile industry which began in New England in the early 1790s with the invention of the first water-powered spinning mill (Dublin 1994) <s>3. The second history is that of the apparel industry which

emerged in New York City with the men's clothing industry in the 1830s, and then exploded in the 1850s following the first great wave of European immigration, and the invention of the industrial sewing machine (Green 1996; Petras 1992). For industry definitions, see endnote 3.

In the U.S., the textile and apparel industries evolved separately. Today, however, these industries are vertically integrated and arranged under a single management system. Because textile and apparel production require different technologies and production processes, however, they remain separate industries (Rosen 2002).

The focus of this paper is on the industry of workers who cut and sew fabrics into clothing: the apparel industry. Until about the 18th century, women made most of the clothing worn by their families inside of the home. The exception was upper-class tailored-ware, which was specially ordered by customers and usually made by men who worked as tailors. With the rise of the middle class, tailors found a market for "ready-made" men's clothing in the 1830s and 1840s. They, along with merchant manufacturers, started farming out or outsourcing the sewing of the cheaper quality of fabric to women (Green 1996). Here, for the first time (native born) women could receive wages for their "homework," though as Green (1996:415) states, "this did not necessarily mean they saw the coins of their labor." At a time when women could not own property, vote, or work in most industries, economic independence was a rarity.

By the 1850s in America, gender-based labor segmentation was firmly a part of apparel commodity production (Stansell 1983), though these changeable gender divisions were rarely linked to any objective measure of performance <s>4. Accelerated by an increase in mechanization, a greater demand for ready-to-wear clothing, and most

importantly, by a massive supply of young immigrant workers (Petras 1992), the industry was able to expand its reach far beyond its upper-income, custom order consumers.

Then, like now, the composition of incoming immigrants helped determine the ethnic base of the industry. The birth of the apparel industry and the sweatshop in the U.S. began in New York City where first, American born, and then Irish and Germans immigrants dominated the trade. Following the second wave of immigration, Eastern Europeans, most notably Jews, and Southern Europeans, primarily Italians, maintained the largest presence in the industry from around the 1880s to the first few decades of the 1900s (Bender 2003).

It was during this time of unprecedented immigration and a burgeoning ready-wear clothing market that the piece rate system (also known as the task system) developed in tandem with the contract system. The piece-rate system was often used to the advantage of the shop owner who contracted or subcontracted out the cutting and sewing to homeworkers. If the worker maintained a high output, the owner would frequently attempt to save money by paying the worker by the hour. If the worker's output was lower, the owner often would pay the piece-rate, which was almost always lower than the minimum wage.

By the turn of the 20th century, sweatshop workers toiled on average 84 hours per week, laboring up to sixteen hours per day during the peak season, and earning on average between \$6-7 per week (Levine 1924). Then, as today, women garment workers were paid considerably less than their male counterparts, with children earning the lowest wages of all. Because of the low wages and high rents in many of the nation's increasingly overcrowded cities, garment shops were often set up in cramped apartments

where dozens of workers sewed alongside one another, and slept in shifts (Lieurance 2003).

Particularly in small shops, though in many factories as well, the working environment of the sweatshop was usually unsanitary, unhealthy and dangerous. Because contractors and subcontractors relied upon low rent shops with minimal infrastructure and capital investment for cost cutting purposes, health and safety protections in most shops were minimal or non-existent. The occupational hazards included lead poisoning, poor ventilation, insulation, and lighting, blocked fire exits, and even doors that locked from the inside out. Sweatshops were also frigid and damp in the winter and sweltering in the summer. The air inside the shops was characteristically foul with the smells of nearby sewers, alongside the pungent fumes of gas stoves and charcoal heaters (ibid. 2003).

As significant as the unhealthy surrounding work environments were, the work hazards common to the process of garment production itself were equally harmful. In the early 1900s, there were no laws mandating that owners safeguard machinery. This fact, coupled with the extraordinary pace with which workers had to produce large numbers of garments, led to an untold number of industrial injuries and fatalities. According to Lieurance (2003:39), “lost fingers, scalpings, and spine malformations, caused from sitting stooped over for hours on end, were not unusual.” In addition to dangers from the machinery were the hazards from the textiles themselves. Toxic dyes from lesser grade cloth sometimes poisoned the workers’ skin. And dust particles from clothing, poisonous gases from irons, and pressing machine steam often caused diseases like catarrh (inflammation of the mucous membrane) and tuberculosis (Green 2003; Lieurance 2003).

The Role of Unions in Combating the Conditions of the Early American Sweatshop

In this section, I pose my first qualitative research question: Did size of and participation in union activity influence better working conditions for apparel workers?

Faced with exploitive work and payment systems, below poverty wages, exceptionally long hours, worker mistreatment, and unsafe and unhealthy labor conditions, key garment trade unions began to emerge during the 1890s and early 1900s. One of the first major unions, the *United Garment Workers* (UGW), emerged in 1891 as an amalgamation of existing independent local unions, some of which had been in existence since the early 1870s (Vural 1994).

The UGW distinguished itself as a key player in the men's clothing industry. UGW's leadership promoted the interests of skilled, American-born, male workers via the sale of the union label (ibid. 1994). Although the UGW would later start a women's local in 1907, according to Asher (1984), the UGW membership generally was not inclusive of immigrant and socialist workers, and its leadership was largely disinterested in women workers. Women's clothing worker unions developed separately from the early men's clothing unions, as most male unions during this time did not think women were capable of being organized.

In 1900, the *International Ladies' Garment Workers' Union* (ILGWU) formed with the express mandate of representing all women's clothing workers in their efforts to abolish extremely long work days, sub-poverty wages without benefits, and unsafe and unhealthy working conditions. In terms of organizational philosophy, the ILGWU was much more progressive than the UGW. From its inception, a socialist vision that critiqued not only the labor conditions in their immediate industry, but the larger

relationship between workers and the owners of capital was present in its ILGWU's mandate (Vural 1994). As stated in the preamble of the ILGWU constitution:

The only way to secure our rights as producers and to bring about a system of society wherein the workers shall receive the full value of their production, is to organize industrially into a class conscious labor union politically represented [in] the various legislative bodies by representatives of a political party whose aim is the abolition of the capitalist system so that we may be able to defend our common interests (Levine 1924:104).

Despite its purported socialist leanings, contradiction between its emphasis on class consciousness and its desire for workers to gain greater control of the means of production, and its leadership's proclivity toward sanctioning workplace only or "pure and simple" trade unionism were evident for the ILGWU's beginning (Vural 1994). Alongside this struggle for increased class consciousness was also a strong effort to infuse gender consciousness among the majority female workforce. This effort was realized at the *American Federation of Labor* (AFL) convention in 1903 when the *Women's Trade Union League* (WTUL) formed with the purpose of organizing women workers into existing trade unions (ibid. 1994). The WTUL leadership, as well as many of its members, were comprised of feminist and middle class reformers.

Throughout the early 1900s, the WTUL was instrumental in providing relief, publicity, and general assistance for women's unions (Lieurance 2002). One of their largest efforts included aiding workers in the famous Shirtwaist Makers strike, called "the uprising of 20,000" in 1909. The women and men shirtwaist makers, known as "Local 25" in the ILGWU, engaged in one of the largest general strikes (and largest women's strikes) in the industry's history.

The major demands of the strikers included a fifty-two hour workweek, a closed

shop (union labor only), advanced notice of part-time work/layoffs, and importantly, an elimination of the brutally exploitive subcontracting system. Additionally, the workers wanted safer working conditions, including adequate fire escapes and unlocked doors from inside of the factories to the streets. Out of the forty-three thousand shirtwaist workers in New York City in 1909, more than 20,000 supported these demands, and went on strike (ibid. 2002). The WTUL choreographed the strike by renting meeting halls, persuading middle class women to march on the picket lines, registering new union members, fundraising, distributing relief benefits, issuing bail for arrested strikers, employing the mainstream press to report on the police brutality and hostile treatment of workers in the courts, and ultimately, garnering the attention and sympathy of the public and key reformers (Vural 1994).

Within two months, the strike had ended with 354 small shops settling (Vural 1994), though more than 150 large firms, including the infamous Triangle Shirtwaist Company, refused to bargain with the Local 25 of the ILGWU (Lieurance 2002). The gains in the small shops included a fifty-two hour work week, wage increases of up to 15%, limits on required over-time, legal holidays, and spreading the work to all employees (to avoid layoffs) during the slow season. As Vural (1994:89) reports, “though the contracts quickly proved difficult to enforce and impossible to renegotiate, the Uprising of the 20,000 transformed a skeletal union into a living institution.”

The following year (1910), the ILGWU organized a general strike among New York City’s male cloakmaker’s. Unlike the women’s Shirtwaist Makers’ strike the previous year, the cloakmakers’ strike was fully pre-planned, directed, and funded by the ILGWU’s male leadership. The cloakmakers’ “revolt” as termed by Levine (1924),

accomplished what would be called the Protocol of Peace. The Protocol established the first wage standard in the industry, created limitation on maximum work hours, initiated an arbitration system (to limit strikes), and founded the first Joint [management-labor] Board of Sanitary Control, to oversee work conditions.

Although these were important gains for cloakmakers, and others in the men's clothing industry, the Protocol did little to improve the working condition of women and immigrant workers. Importantly, the wage standard won by the Protocol applied differentially according to gender, and women saw little or no improvement in their wage conditions. Further, the arbitration system, as reported by Vural (1994) began the first move away from the ILGWU's expressed broad social mandate, toward a narrower (and more self-serving) agenda of "managing the industry" to the joint benefit of owner and union leader interests. Equally as important, was the absence of worker safety improvements, and the difficulty in ensuring these significant, but limited industry gains without the backing of the State. As evidenced in 1911 following the catastrophic Triangle Shirtwaist Factory fire <s> 5, abysmal garment working conditions would only be superficially remedied without the vigorous commitment and support of local, state, and federal legislation and enforcement.

In the years immediately following the Triangle fire, New York played an important leadership role in labor legislation by creating several new worker safety and building code laws. In 1913, New York State also passed the fifty-four hour work-week, and by 1914 thirty-six new laws passed, including a women's minimum wage (Lieurance 2002).

That same year, the last of the major garment unions was formed: the

Amalgamated Clothing Workers of America (ACWA). The ACWA (later the Amalgamated Clothing and Textile Workers of America), often cited as an example of the “new unionism,” came together to organize all workers in the men’s clothing industry, regardless of their skill, gender, or nationality. The initial objective of the union was to support industrial unionism (as opposed to craft unionism) <s> 6, in an effort to create a “universal working class organization.” Similar to the ILGWU however, over time the ACWA leadership would also narrow its focus from worker control over the means of production to worker participation in the management of production. Coined by ACWA founder Sidney Hillman, this new vision was called “industrial democracy” (Vural 1994).

Throughout the remainder of the nineteen teens, the ILGWU and ACWA continued to expand their membership, and by 1920, both unions were organized in nearly 50 cities (Petras 1992). Adjusting to the new federal quota system, which limited the number of immigrants entering the U.S. in the 1920s, the new “immigrants” became African Americans and Puerto Rican migrants who moved northward to join their more established sisters and brothers in the garment trade (Green 1996). Not coincidentally, apparel manufacturers during this time, began to shift some of their production to the non-unionized South.

Like the decades that followed, the 1920s would prove tumultuous for the unions, with gains and losses that mirrored the economic currents of the nation and the vagaries of the industry. Not unlike its earliest days, contests over the direction of union leadership, specifically in the ILGWU, led to increased power struggles between the goals of workplace reform vs. worker revolution. From the perspective of the Communist

Party (CP) members who were vying for the latter, reforms limited to health, safety, and wages “betrayed workers by forcing them to adopt to a system of class collaboration” (Stein 1977:202).

In terms of action, the Communist leadership in the ILGWU encouraged larger numbers of strikes and walkouts, including the massive 35,000 ladies’ garment worker strike of 1926. Described as an “earnest and determined” effort by the strikers, their leadership would not be able to replicate the same skill level as its workers (Levinson 1927: 207). Indeed, the bargaining agreements that followed the protracted strikes were generally less than what would have been gained through less lengthy strikes or arbitration, a strategy which was greatly opposed by the CP. Continued financial mismanagement and inept CP leadership eventually led to a depleted and fractured membership, an empty treasury, and massive debt. Thus, by the end of the 1920s, the major garment union had little control over industrial conditions (Herberg 1952).

Two Steps Forward, Three Steps Back: New Deal Worker Reforms and the Cold War Freeze on Labor Progress

By the time the Great Depression began, union registration in the ILGWU and the ACWA was at an all-time low, and workers in the garment industry were once again forced to weather a precarious economic climate, largely without the benefit of protective legislation. From this economic “bottoming out,” emerged a broad range of sweeping federal legislative changes that for nearly half a century would eliminate the worst abuses of the sweatshop. Ironically however, portions of this New Deal legislation, would also lay the groundwork for globalization of the U.S. apparel industry (Rosen 2002).

One of the earliest pieces of federal legislation designed to bolster the rights of workers was the Norris-LaGuardia Act/Anti-Injunction Bill of 1932. The Act prohibited “yellow dog” contracts in which workers agreed, as a condition of employment, not to join the union. This Act declared as public policy labor’s right to organize. In 1935, Congress passed the Wagner Act, also known as the National Labor Relations Act, which gave protection to workers in the private sector to organize unions, engage in collective bargaining over wages, hours, terms and conditions of employment, and to take part in strikes, and other forms of concerted activity in support of their demands.

The Act created the National Labor Relations Board (NLRB), and gave it extensive power over unions. This included the power to investigate and decide unfair labor practice charges, and to conduct elections in which workers were given the opportunity to decide whether they wanted to be represented by a union. Also during this year, the *Committee for Industrial Organization* (CIO) was formed as part of the larger *American Federation of Labor* (AFL), which the ILGWU briefly became affiliated with, until it returned to the AFL following the AFL/CIO split in 1938 <s> 7 (Illinois Labor History Society 2004; Wikipedia Encyclopedia 2004).

In 1938, a key piece of labor legislation called the *Fair Labor Standards Act* (FLSA) was created. The FLSA was enacted to regulate the production of goods shipped across state lines. The Act, administered by the Department of Labor’s (DOL) Wage and Hour Division, would prove to be one of the most important pieces of legislation for holding contractors responsible for shipping garments manufactured in violation of federal wage laws. The FLSA also established a national minimum wage of .25/hour, guaranteed time and one half for overtime (for most industries), and prohibited most

employment for minors (Illinois Labor History Society 2004). By the end of the 1930s, new rights for workers led many reformers to triumphantly claim that the American sweatshop was a relic of the past.

However, alongside these domestic labor victories of the 1930s, emerged new trade legislation that would ultimately set the stage for capital flight in the decades to come. In an attempt to avoid the protectionist and isolationist policies believed to have contributed to the Depression, Congress passed the first international Reciprocal Trade Agreement in 1934 (later known as the Trade Agreements Act). The Trade Agreements Act gave President Franklin Delano Roosevelt the right to negotiate bilateral tariff reductions with individual trading partners (Rosen 2002). Shortly after, Congress gave up the authority to regulate tariffs, entrusting tariff setting to the President. In doing so, Congress would drastically alter the formation of U.S. trade policy following the second World War (ibid. 2002).

Following World War II, labor's position improved as the U.S. experienced unprecedented growth and prosperity as the major economic and political superpower in the world. The destruction of much of Europe afforded U.S. corporations a bountiful opportunity for reconstruction investment (Moody 1988), which kept labor demand high, and also afforded labor an opportunity to demand a bigger piece of the pie.

Weary of stagnant war-time wages, workers began to use their growing size and strength to their advantage. Following the War, union membership climbed to new heights, and in manufacturing (the sector of the economy that houses the garment industry), the percentage of unionized workers grew from 40% in 1947 to nearly 50% in 1956 (Moody 1988). Bolstered by this strength in numbers, more Americans were

striking than ever before. Concomitantly, wages in manufacturing (including the apparel industry) rose steadily, as well.

As with previous labor gains however, domestic and foreign policy shifts began to surface, and set the stage for radical restructuring in the manufacturing industries, of which apparel would be the hardest hit. Thus, while U.S. corporations continued to work with the unions and garment workers in recognition that stable, domestic labor relations would be more profitable (Johns 1994), they were also simultaneously employing their own industrial associations and lobbyists to help ensure a long-term favorable business climate in Congress.

To this end, in 1947, Congress amended the Wagner Act of 1935, and passed the Taft-Hartley Amendment, also known as the Labor-Management Relations Act (LMRA). The Act imposed a number of restrictions on unions including the prohibition of jurisdictional strikes--strikes used to pressure employers to assign particular work to the employees it represents. It also banned secondary boycotting and picketing, in which unions strike, or refusal to handle goods of a business with which they have no primary dispute, but which is associated with a targeted business. LMRA also eliminated closed shops, which were contractual agreements requiring an employer to hire only labor union members. Related to this, the Amendment granted to individual states the right to outlaw union security clauses, in essence creating "right to work laws" in many states (Wikipedia Encyclopedia 2004).

Taft-Hartley further limited the bargaining power of unions by requiring unions to provide 60 days notice to employers and certain state and federal mediation bodies before striking. It codified earlier Supreme Court rulings giving employers the right to express

their opposition to unions, provided that they didn't threaten workers with reprisals or inducements to refrain from joining. It also granted the NLRB discretionary power to seek injunctions against unions or employers who violated the Act, and gave the right to employers to sue unions for damages incurred by a secondary boycott. Finally, the Amendment required union leaders to file affidavits with the DOL swearing that they were not supporters of the Communist Party as a condition of participating in NLRB proceedings (ibid. 2004). The Supreme Court eventually ruled this last clause unconstitutional in 1965-though by this time, most of the Communist Party union members had already been purged.

Despite these legislative attacks on union organizing, counter-offensives were not to be found among labor leaders throughout the 1940s and 1950s. In an age of increasing national and worker prosperity, the rapidly increasing labor unions began to operate more like businesses. Characterized by their heavily bureaucratic, anti-democratic structures, and widening gaps between officers, staffers, and members, the new "business unions" were incompatible with the broader vision and practices of the old social unions. "Income maintenance" replaced the goals of production control, full employment, and job security, which then in turn created a diminished function for the unions (Johns 1994).

As Moody (1988) maintains, this shift in focus severely limited labors' influence upon central management decisions involving production schedules, capital investment, and plant locations. Heedless of the early Communist predictions linking "class collaboration" to the hegemony of business, union leaders would be ill prepared to effectively fight the imminent domestic, and later, global capital flight of the apparel

industry.

A Different Kind of UNITE: U.S. Imperialism Meets Global Capitalism in the Textile and Apparel Industries

Research Question Two: Did corporate globalization have a negative impact on working conditions for domestic and global apparel workers?

The hegemony of business, supported by the neoliberal economic paradigm would have an enormous impact on U.S. foreign policy agendas and the simultaneous shift in capital investment in foreign nations that emerged following World War II. After the War, the U. S. was the only industrialized country whose infrastructure and manufacturing capabilities had not been either demolished or severely damaged. Producing half of the world's industrial output at that time, the U.S. faced the challenge of finding new markets to maintain domestic prosperity and stability (Johns 1994), as well as new international monetary organizations that could further this goal around the globe.

It was within this economic world [re]-ordering that in 1944, the U.S., with assistance from the allied powers, created the International Monetary Fund (IMF) and the World Bank, as a result of the UN Monetary and Financial Conference at Bretton Woods, New Hampshire (Freeman 1998). The World Bank (originally the International Bank for Reconstruction and Development), began as a distinct international organization that provided long term loans, grants, and technical assistance, to aid less developed countries in their implementation of poverty reduction initiatives.

The International Monetary Fund (IMF), began as the keeper of the international

monetary rules (including economic exchange rates), and served as the main body of public international management. As part of its management lending capabilities, the IMF was also given the authority to exercise "surveillance" over a recipient nation's economy. This policing capability on behalf of the U.S. Treasury, was created to ensure that IMF loans were being used in a manner consistent with its objectives of promoting global economic stability. (Wikipedia 2004; 2003). Thus, although initially distinct, the dual organizational missions of reducing global poverty and increasing global economic stability were both seen as compatible and mutually reinforcing goals.

Three years after the creation of the World Bank and IMF, the U.S. also established the General Agreement on Tariffs and Trade (GATT). Formed as a reciprocal trade alliance between the U.S. and 22 European capitalist countries, GATT was designed to promote fair and cooperative trade through decreased tariffs on imports, and to open markets to exchange and investment. The expressed purpose of GATT was to help rebuild war-torn Europe (particularly the Atlantic Alliance nations), as part of the European Recovery (Marshall Plan) Program. By the early 1950s, however, the U.S. began to use the tariff reductions as a strategy to help contain the spread of Communism in Eastern Europe and in the Asian-Pacific Rim (Rosen 2002).

In the early post-war years, the chief economic stabilizer was believed to be Japan and its textile and apparel industries. By occupying the country and directing its postwar reconstruction through 1952, the U.S. State Department, was able to tailor Japanese (and later South Korean and Taiwanese) economic policies and political agendas to meet U.S. security objectives <s> 8 (Nehmer and Crimmins 1948). Specifically, the U.S. spearheaded the creation of new markets for high quality, low-wage garment exports in

the Pacific Rim, while simultaneously containing “falling dominoes” in the region. Thus, with Japan as its area “workshop” leader, the U.S. could promote its model of Western, liberal, democratic, capitalism in the East (Rosen 2002).

Domestically, GATT was not perceived by workers and certain garment industry segments as optimistically. Rather, the employment of the reciprocal trade model meant that for the first time in U.S. history, protective tariffs on imports would be drastically reduced to accommodate a variety of low cost, labor intensive imports (Barnett 1983; Rosen 2002). Despite the significant obstacles created by GATT, and the concomitant reordering of longstanding domestic economic practices, both the Truman and Eisenhower Administrations advised the apparel and textile industries to adjust. Recognizing the impending hardships, industry segments that had to compete with low-wage imports and labor unions pressed forth for renewed protective legislation.

Minor and occasional concessions were granted to the protectionists in the 1950s, despite the overall expansionist trend. These concessions were largely granted through the Trade Agreements Act, designed to limit unfair competition by creating “peril points” at which lowered tariffs would pose undue harm to an industry, and “escape clauses” where a given industry could lobby for exemption from the said injurious trade policy (Rosen 2002). Also, for a period of time in the 1950s, Japanese Voluntary Export Restraints stemmed the wave of textile and apparel imports that had been inundating U.S. markets (Johns 1994).

For the apparel industry (which began to feel the effects of trade policy shifts later than textiles), the most noticeable change for workers in the 1950s was the onslaught of domestic capital flight, following the passage of the Taft-Hartley Act, in 1947.

Responding to increased competition abroad, and a desire to limit costs at home, large numbers of apparel manufacturers moved out of the heavily unionized, organized, and highly skilled areas of New York City, to out of town shops, and especially the many union-free “open” shops of the South (Petras 1992).

Unlike the North, the South was still primarily agrarian in the 1950s. Never having passed through the phase of industrial manufacturing, nor having experienced the massive European migrations, the South experienced a different economic history. With its political economy rooted first in slavery, and later in the poorly remunerated, non-industrial agricultural, coal mining, fishing, and service sectors, the South was not party to the popular social and worker movements found in the North, borne of widespread immigrant labor exploitation. Due to this differing economic, political, and social history, labors’ ability to influence the working conditions in apparel shops at home was severely limited. Thus, as a result of the severely diminished strength of garment unions (exacerbated in large part by the rapidly increasing U.S. free trade agenda), future spatial mobility in the apparel industry would be much easier to accomplish in the decades ahead (ibid. 1992).

By the early 1960s, the increase in “runaway shops” (both at home and abroad) had all but eliminated the labor-management agreements that had existed since the New Deal. With the first wave of domestic, garment capital flight nearly completed, low-wage labor opportunities became of greater value to clothing manufacturers than the value of domestic wage stability. Still, at this point, apparel factories were only in the beginning stages of offshore production; low-wage foreign imports were still believed to be *the* major threat to the industry and its workers. Although supportive of economic trade

liberalization, the Kennedy Administration (more than the preceding Truman and Eisenhower Administrations) attempted to respond to the protectionists, by initiating a quota policy on the increasing numbers of apparel and textile imports entering the U.S. from low-wage nations <s> 9 (Rosen 2002).

In establishing import quotas, the Kennedy Administration recognized that unlimited, mass-scale low-wage imports in a labor-intensive and low-capital industry like apparel, would ultimately undermine domestic apparel production. In addition to establishing these quotas, the Kennedy Administration also put in place program financing for industrial restructuring. Ultimately however, neither of the “Kennedy compromises” would prevent the dramatic rise of offshore productions in the 1960s, first in Hong Kong and Taiwan, next in South Korea, Singapore, Malaysia and Mexico, then in Thailand and the Philippines (Petras 1992), and finally on to Bangladesh, Sri Lanka, Pakistan, India, China, Sub-Saharan Africa, and other low wage regions (Rosen 2002).

In the 1970s, new technological innovations in the garment industry permitted apparel manufacturers to link global production systems resulting from faster transport speeds, and a transition from mass production to the more flexible and decentralized forms of industrial production (ibid. 2002). Ironically, this hastening of de-industrialization in many U.S. manufacturing industries was occurring at the same time that the Johnson Administration was putting into place its Great Society programs. Similar to New Deal worker legislation reforms that did not anticipate the effects that unchecked trade liberalization would have upon domestic manufacturing production, so too, the Great Society programs of the 1970s did not adequately address the economic consequences that would result from mass deindustrialization. Thus, in failing to cede

capital flight in the many low-wage, low-skilled manufacturing sectors, foreign competition would soon prove too fierce for most U.S. garment workers to compete.

“Racing to the Bottom”: Making the South Safe for Corporate Democracy in the Reagan and Bush Years

Up until the 1980s, there remained at least some pretense by the State that industrial restructuring and increased automation could enhance the competitiveness of domestic production, while limiting the number of manufacturers seeking offshore workers. By 1981, the increasingly lop-sided attempts to balance U.S. foreign policy and industry-segment interests with those of apparel workers, was rapidly coming to a halt. The Reagan Administration hastened this demise through a combination of free trade initiatives, anti-Communist military aid and interventions in the Americas, deregulation, and the dismantling of the American welfare state.

Much like the previous restructuring of select Asian- Pacific Rim economies, the Reagan Administration’s efforts ensured that both Caribbean and Latin American economies would be shaped to meet U.S. political and economic agendas. Fueling the continuation of off-shore production in the 1980s was a special provision in the U.S. Tariff Schedule (USTS), referred to as 807. This provision permits cut garments to be exported offshore for assembly and re-imported into the U.S. with a tariff paid only on the value added to the garment through low-wage assembly (Ross 1997). Originally, the 807 provision was implemented in 1963 for the purpose of encouraging “production sharing” by limiting tariffs for U.S. goods made in more than one country (Rosen 2002). From the perspective of capital, by shifting industrial investments to developing countries, U.S. corporations could gain access to markets protected by tariff barriers, and could enhance their profit potential by employing a wealth of low-wage and unorganized labor (Petras 1992).

Before long, apparel retailers and manufacturers realized that export processing zones (i.e. offshore assembly plants) afforded the garment industry greater allowances with labor (and thus with profit potentials) than had ever been possible with domestic production. As Rosen (2002) describes, export processing is normally conducted in specific industrial zones, where host countries, desperate for the jobs created by apparel EPZs, finance garment infrastructure, and provide tax relief to businesses for providing its citizens employment.

Such financing from lending institutions (like the IMF) usually comes at a high price. As a condition for less developed countries (LDCs) to obtain the grants and loans afforded by international lending agencies, they must be willing to engage in the necessary “structural adjustments” required of a market economy. From the perspective of the lending institutions, “free markets” are the best way to stave off economic catastrophe (2003). From the perspective of the many workers who must toil under such an economy however, “free” and “fair” trade are worlds apart.

Characteristically, export processing zones are political and economic enclaves. The factories in EPZs are generally geographically isolated. Barbed-wire fences, armed guards and/or other intimidating barriers that limit workers’ freedom and mobility also sometimes surround them. Indeed, in countries like Haiti, Guatemala, and El Salvador, the maquiladoras are partially managed and owned by former members of the countries’ military juntas (Ross 1997). Further, EPZ factories are devoid of health, safety, wage, and other regulatory laws and measures, regardless of whether these regulations exist in the non-EPZ sector of the host country (Human Rights Watch 2002).

In Guatemala for example, the country’s labor code protects women workers from

pregnancy-based discrimination, and affords them access to the employee health care system, including a full range of maternity benefits. In the *maquila* export processing zones however, factories do not uphold the same labor laws that are required in the rest of the country (ibid. 2002). Thus, given the grossly exploitive and unequal relationships that exist under these conditions, it is not surprising that EPZs are breeding grounds for sweatshops.

Today, export processing zones and free trade zones are generally regarded as one in the same. However, for the better part of thirty years, capital pushes for offshore production had to contend with domestic protectionist forces in Congress, industry, and labor. In the early 1980s, southern textile manufacturers, eastern apparel manufacturers, and trade unionists formed a coalition aimed at increasing protection for domestic producers, securing a stronger Multifiber Agreement, and tightening global import controls (Lande 1991). Calling itself the Fiber, Fabric, and Apparel Coalition for Trade (FFACT), the unlikely allies shared the common concern that unlimited mass-scale low-wage imports would destroy domestic apparel production.

By this time, FFACT had good cause for concern; by 1984, more clothing was being imported by the U.S. than was being produced domestically (Petras 1992). In an attempt to stem the rising imports, FFACT introduced the Trade Enforcement Act (also known as the Jenkins- Hollings Bill) to Congress in 1985. The Bill required that apparel import expansion be tied directly to the growth of apparel purchases in the U.S. (Howell and Noellert 1986). Although large majorities in both the House and Senate passed the Trade Enforcement Act, Reagan vetoed the Bill in 1985, as he did a similar bill passed by the House and Senate in 1987; in 1990, his successor, President George H.W. Bush,

vetoed the third and final trade bill aimed at managing textile and apparel importation in the U.S. (Rosen 2002).

On the cusp of free trade expansion in the Americas, one of the first nations to be targeted as an EPZ in the West was Mexico. Through the U.S.-Mexico Border Industrial Program (BIP) initiated in the 1960s, partially or entirely foreign-owned companies could set up factories within a virtually tax and tariff free 12.5 mile zone along the Mexican side of the border (Johns 1994). In an effort to attract foreign direct investment in Mexico, and other developing nations, formal investment conditions were established in the export processing zones that were characteristically quite favorable to capital and exploitive of labor. Specific benefits offered by host countries to lure investors included (and still include) tax holidays or tax concessions, low-interest start-up loans, physical infrastructure-including electricity, transportation, and communication facilities, physical plant, and sometimes, housing for factory workers.

Bolstered by the rapidly rising offshore EPZs, and the increasing need to compete with Asian imports, in 1983, the Reagan Administration widened the pool and scope of “sourcing” countries in the global South, by establishing the ironically named Caribbean Basin Economic Recovery Act. More commonly known as the Caribbean Basin Initiative, the CBI extended apparel trade between the U.S. and twenty-two countries in the Caribbean and Central America by allowing duty-free access to U.S. markets contingent upon the acceptance of the beneficiary nation’s cooperation with expressed U.S. economic policies. In return, 35% of all U.S. apparel imports had to originate from the beneficiary nations (Kamel 1990).

Both direct and indirect foreign aid and investment were also a part of the CBI

(and later the Bush Administration's expanded Enterprise for the Americas Initiative), though at a cost that furthered the less developed countries' political and economic dependence upon the United States. Specifically, CBI participants were required to accept:

U.S.-mandated exchange rate-adjustments; privatization of state-owned resources, production facilities, and government services; wage controls; elimination of energy and food subsidies; the building of export processing zones; the liberalization of banking; foreign majority participation in property ownership; tax free imports of equipment used in the production of export goods; and the elimination of controls on the remittances of profits. (Rosen 2002:133; 159).

Undoubtedly, the said contingencies call into question the CBI's professed objective of sponsoring direct foreign investment to assist nations in their recovery from debt and poverty. Plagued by the recessions of the 1970s caused in part by two global oil crises, and a drastic decline in the prices paid for their major exports (oil, sugar, coffee, bauxite, etc.), by the 1980s, many Latin American countries were desperate for economic recovery (ibid. 2002). Within the context of quid pro quo economic restructuring, the CBI was marketed as a program to bolster open markets and assist Caribbean and Latin American countries with their economic recovery, while supporting democracy.

Yet what is rarely mentioned among politicians, economists, and other policy makers, is that the global division of labor created in these restructured economies are increasingly de-skilled, low-wage, and feminized. As Enloe astutely notes (1993), as women moved into the export processing enclaves (comprising 90% of zone labor), traditionally male manufacturing sectors like sugar, oil, and bauxite, (with double women's average wages), began to decrease. Therefore, by marshaling a predominantly female labor force in the de-skilled and low wage EPZs, both the State and capital were

able to preserve their power base, while enhancing profits.

Aside from the insidious, conscious exploitation of the gendered division of labor, the CBI did rather little to improve the economies of the participating countries.

Following its passage, less than seven percent of CBI exports were newly provided with duty-free imports. Further, real incentives for investment, like tax credits and accelerated depreciated allowances were not a part of CBI (Rosen 2002). Simply put, the CBI did little more than to continue the dependency-fostering economic policies traditionally forced upon the many countries of Latin America.

In a similar vein, the Reagan and Bush administrations' professed objective of promoting democracy in Latin America through counter-insurgency military interventions, served the opposite objectives. By containing or destroying popular, democratically elected governments and left-wing insurgencies in Latin America, and supporting authoritarian "pro-American" regimes, the U.S. bartered human rights, and political, economic, and social justice, for a favorable trade and corporate investment climate.

Beyond the billions of dollars each year that the Reagan and Bush administrations funneled to support CBI nations' new export-oriented growth model, the U.S. provided much economic support to U.S. apparel and textile companies, by encouraging them to reinvest their profits in foreign, rather than domestic operations. One particularly egregious tax-payer funded program initiated by the U.S. Agency for International Development was U.S. AID.

Over a twelve year span, U.S.AID funded U.S. apparel manufacturers to close their domestic plants in the U.S. and reestablish plants in the low-cost/low-wage, union-

free areas of Latin America. As the National Labor Committee report's title states, with the support of the Reagan and Bush administrations and U.S. tax dollars, American apparel and textile workers were "paying to lose [their] jobs" (NLC 1992). Other corporate welfare programs initiated by both Administrations included: deferment of U.S. income taxes on overseas profits until the profits reentered the U.S.; allowing corporations to subtract taxes paid to foreign governments from taxes owed to the IRS; and rewriting the U.S. tax code to allow corporations to credit all of their foreign income taxes against their domestic liabilities on a dollar for dollar basis (Kamel 1990).

Aside from helping the apparel industry directly through generous corporate welfare allowances and a favorable economic investment and trade climate, the State also assists the industry by indirect means. In 1986, the Reagan Administration passed the Immigration Reform and Control Act (IRCA), making it increasingly difficult for undocumented immigrants to find work. IRCA requires the federal government to impose "employer sanctions" on anyone employing an illegal immigrant. While seemingly reasonable on the surface, the Act most often harms the undocumented worker, and often empowers rather than dissuades the employer (Bonacich and Appelbaum 2000).

Because so many undocumented workers are desperate for work, many will pay hundreds of dollars for illegal work papers (often with the aid of the contractor), and will work under exploitive, abusive, and harmful labor conditions for fear of being deported. Also, it is important to note that since virtually all of the contractors are males and most apparel workers are females, there is an increased layer of vulnerability that women experience because of their subordinate position in society, in the workplace, and at home. Such considerations are routinely ignored when formulating public policy

generally, and labor policy specifically effecting women's lives.

What is perhaps most ironic about IRCA is that it ignores the very unequal and desperate global economic conditions that force millions of immigrants to cross the borders into the United States in the first place (Ross 1997). Time and again, liberal and reactionary immigration policies are created (and then ignored) to suit the economic vagaries of the many U.S. industries that rely upon immigrant labor. Corporate influence over immigration policies of this sort are rarely revealed to the American public, however. Instead, in times of economic downturns, the always handy "illegal alien" serves as a cultural scapegoat for a variety of social ills, including the perpetuation of the American sweatshop.

One final point on undocumented workers is the conflict that exists between IRCA and the Fair Labor Standards Act (FLSA). IRCA requires that employers be sanctioned for knowingly hiring undocumented workers. While difficult to prove *mens rea* in terms of contractor culpability, no such criteria are needed to deport an undocumented worker back to her/his country of origin. Most often, when undocumented workers attempt to assert their legal rights to the provisions laid out in the FLSA (see definition on pg.13), contractors threaten to fire them, or worse, to contact immigration agents. Immigration authorities have the right to deport workers for not possessing the required legal documentation (Bonacich and Appelbaum 2000).

Of course this creates a bind for the Department of Labor's Wage and Hour Division who enforce the Fair Labor Standards Act. Historically, Wage and Hour has not reported undocumented workers to immigration officials. However, it is at least foreseeable, that in a post-9/11 environment, where intra-agency information sharing is

on the rise, and increasing national security concerns are rapidly supplanting established civil rights, that DOL employees may be forced to report illegal immigrant workers in the near future. Thus, an unfortunate, and sad irony exists for the global poor whose economic opportunities depend on MNCs and State immigration policies: “unlike the right of capital to move freely [in a globalized free market economy].....no such right is afforded labor” (Bonacich and Appelbaum 2000:7).

From Bad to Worse: NAFTA, WTO, FTAA, and the Death Knell of the Apparel Industry

The end of the Bush Administration in 1992 laid the groundwork for one of the largest free trade agreements in the Americas. Congress ratified the agreement, known as the North American Free Trade Agreement (NAFTA), in 1994 during the first Clinton Administration. Its purpose was to liberalize trade and investment in the more capital-intensive manufacture sectors of automobiles, electronics, and machinery, with its North American trading partners Canada and Mexico (Rosen 2002).

Despite the original push toward higher valued goods, within four years of NAFTA’s passage, apparel became Mexico’s fifth largest export. Nearly 98 percent of Mexico’s apparel export went to the U.S. (McMillion 1999), which made Mexico (who had been excluded from the CBI in the 1980s), the largest apparel exporter to the U.S. Domestically, with all quotas and duties removed, NAFTA caused unprecedented hemorrhaging to both Mexico and the United States’ indigenous apparel production. This was accomplished by making both countries unable to compete with the onslaught of low-wage imports from regional apparel producing countries.

While undoubtedly impoverished before the passage of NAFTA, some

economists note that NAFTA has intensified Mexico's poverty by sustaining inflation and currency devaluations (Rosen 2002). For example, according to the Department of Labor's Bureau of Labor Statistics (1998), wages for manufacturing workers in Mexico have fallen 20 percent since 1993. In 1999, a study by the InterAmerican Development Bank reported that since the passage of NAFTA, Mexican consumers had suffered a 39 percent drop in their purchasing power, and that the number of Mexican's living below the poverty line has doubled since 1993 (Wallstreet Journal 1999).

Additional evidence that free trade agreements harm apparel workers while enriching retailers and manufacturers in the U.S. can be found in the Caribbean Basin Initiative. As reported by Rodrik (1998), Caribbean nations that experienced the sharpest wage decline from 1989 to 1998 were also the nations supplying the highest-volume of apparel exports to the U.S. Moreover, the report finds that countries with the worst workers' right abuses, were also the very countries where wages had declined the most.

As trade liberalization rapidly expanded in the Western Hemisphere, and around the globe, in 1994, the Clinton Administration helped usher in a new trade organization for the 21st century. Aptly named the World Trade Organization (WTO), the new organization, replaced the General Agreement on Tarriffs and Trade, which had governed the rules of world trade since 1947. The WTO's mandate consists of regulating world trade to the benefit of the international banks and transnational corporations, as well as overseeing the enforcement of national trade policies (Freeman 1998; Stiglitz 2003).

To this end, in an effort to further the global expansion of multinational corporations in the new millennium, the 128-member WTO is currently overseeing the dismantling of so-called protectionist apparel and textile quotas established in the

MFA.(For further discussion of MFA, see endnote 9). In phasing out these quotas, the apparel trade will be governed by the same trade rules as other U.S. manufacturing sectors.

The WTO's World Trade Agreement also severely limits the ability of any one nation to deny entrance of goods manufactured under conditions that the importing country may deem objectionable. This includes anything from products made with child labor to products made under compulsory labor conditions. Likewise, under the Free Trade Area of the Americas (FTAA), a trade agreement that will soon expand the provisions of NAFTA to all 34 countries of the Western Hemisphere (not including Cuba), corporations will be permitted to sue governments for "perceived losses caused by environment, health, or safety legislation"(Co-Op America Quarterly 2001:iv.).

Following the passage of NAFTA, for example, the U.S. Ethyl Corporation sued the Canadian government because of their 1997 national prohibition against the fuel additive MMT. MMT is widely regarded as a dangerous neurotoxin by scores of environmental and public health groups. Despite this fact, the U.S. corporation brought suit before the NAFTA tribunal charging that the ban "denied the company profits by creating an illegal barrier to international trade" (ibid.2001:iv). Typical of the national sovereignty erosions created by such trade liberalization, Canada subsequently rescinded the ban, paid Ethyl Corp. \$20 million, and put forth a national announcement affirming that MMT did not pose a health risk (ibid. 2001).

What workers have witnessed both with the passage of NAFTA and the World Trade Agreement is the overturning of over a half century of U.S. laws, articulating that the conditions under which goods are produced matters (Howard 1997). Both NAFTA

and the WTO presently do not require that the national labor laws of the participants meet any agreed upon minimum to meet or be consistent with International Labor Organizations' core standards (Moran 2002).

In an attempt to remedy this “race to the bottom,” the International Labor Organization is calling on its member nations to honor all seven of its Core Labor principles, as well as the WTO to include a “social clause” that includes all of these provisions (IRRC 1998). Undoubtedly, there are financial, developmental, cultural, and other impediments associated with voluntary, national labor, environmental, and public health regulations. It is precisely this reason that mandatory, enforceable “social clauses” in both existing and future trade and lending agreements, as well as corporate contracts, must be included to protect the rights of workers.

Chapter Two

Apparel Industry Logic and Practices: Understanding the Organizational and Cultural Environment of the Sweatshop

Inside the Apparel Commodity Chain: “Organizing” the Sweatshop from the Top Down Industry Overview

Thus far, we have examined the “return of the sweatshop” in relationship to the demise of industrial unionization; dramatic increases in immigration and low-wage imports alongside domestic and foreign capital flight to low-wage, non-union locales; deregulation; unprecedented trade liberalization; and the dismantling of the Welfare State. Let us now turn our attention to the role that the garment industry has played in both contributing to and responding to the “return of the sweatshop.”

According to the Department of Labor’s Bureau of Labor Statistics, for the year 2000 (BLS 2003), the apparel industry remains one of largest manufacturing industries in the U.S., with less than 1,000 manufacturers who contract and subcontract out to approximately 23,000 establishments. Most of the legal establishments are concentrated in the smaller number of larger firms, whereas most of the illegal establishments are located in the larger number of small shops or in the home.

The underground, volatile, and transient nature of large portions of apparel production makes it difficult to calculate the exact number of illegal apparel shops in the U.S. Still, the Department of Labor estimates that over half of apparel production in the U.S. is operating illegally. Better known, is that the rise in illegal apparel shops in the last

several decades has been driven chiefly by the dramatic rise of low-wage imports and concomitant increase in immigration (Rosen 2002).

According to the *American Apparel Manufacturers Association (1998)* (now named the American Apparel and Footwear Association), by the late 1990s, apparel imports exceeded \$50 billion, comprising nearly half of the \$101 billion wholesale apparel market. In 1962, apparel imports only totaled \$301 million wholesale, and comprised less than five percent of the apparel market (Rosen 2002). By 2004, AAFA reported that U.S. consumption of apparel reached almost 16.5 billion garments totaling over \$64 billion in 2003; imports accounted for an incredible 96.6%. These data indicate the shift in apparel manufacturing and sales to reflect the more global nature of this industry in the U.S. Indeed, American citizens are the largest consumers of apparel in the world (Bonacich and Appelbaum 2000).

With regard to domestic employment, in 2000, the “apparel and other textile products” industry provided 633,000 wage and salary jobs in the U.S. (DOL, BLS 2003a), far below its peak of 1.45 million employees in 1973 (DOL, ESA 1996). Currently, approximately 7.1 percent of apparel workers are unionized, which is far below the national average of 14.9 percent for unionized workers nationwide (DOL, BLS 2003a).

In 1999, two-thirds of apparel jobs in the U.S. were concentrated in nine states in the Northeast, Southeast, and California (DOL, BLS 2003a). Los Angeles County, the only region that has experienced apparel growth in the past two decades, is now the largest apparel industry employer in the U.S. New York City is the second largest apparel employer, with the remaining regions far behind (Bonacich and Appelbaum 2000).

In terms of occupations in the apparel industry, production workers account for approximately seventy percent (n=438,000) of all apparel industry employment (DOL, BLS 2003a). Sewing machine operators comprise the largest occupational apparel segment with approximately 341,000 workers <s>11. Nearly seventy-nine percent of sewing machine operators (n=268,026) in the U.S. are women and girls (DOL, Bureau of Census and BLS 2003b). This closely resembles the overall gender composition of apparel workers globally. According to the International Labor Organization (2000), women and girls typically constitute 74 percent of the apparel industry workforce.

For legal apparel shops, the hourly median wage of sewing machine operators is \$7.42/hour (BLS 2003a), though the Department of Labor estimates that more than half of the nation's sewing shops violate minimum wage and overtime laws (Sweatshop Watch 1998). Even when paid according to the federal minimum wage, sewing machine operators earn the lowest wages in the apparel industry and earn among the lowest wages of all industries in the U.S. (DOL, BLS 2003a).

Also, it is important to note that the occupational classification "sewing machine operators" includes both textile and apparel workers. Textile operators have a greater composition of male employees, and earn more than apparel sewing machine operators where female employment is concentrated. When examining wages by the industrial categorization "cut and sew" apparel workers, a similar methodological problem arises. Men comprise most of the fabric cutters; women comprise most of the apparel sewers. However, neither the Standard Industry Classification (SIC) codes, nor the North American Industry Classification System (NAICS) that replaced the SIC, include specific occupational breakdowns by gender.

The Retailers

To understand how the apparel industry has contributed to “the return of the sweatshop,” it is first important to understand how the apparel commodity chain works. Beginning at the top, the apparel chain begins with the increasingly consolidated and powerful U.S. retailers. Retailers are the companies that sell garments to the public, and negotiate price with manufacturers or jobbers on costs and time of shipments (GAO 1994).

According to Jay Mazur (1998), former president of the Union of Needletrades, Industrial and Textile Workers (UNITE!), six retail chains account for over half of all apparel sold in the United States, while ten retailers account for two-thirds of all apparel sales sold in the U.S. (Sweatshop Watch 1998). The American Apparel Manufacturers Association (1998) reports that its retail sales in the U.S. now top over \$180 billion. Wal-Mart alone, has both the greatest percentage of apparel retail sales in the U.S., and is the largest retailer in the world, with annual sales that exceed the gross domestic products of 192 countries in the world (Sweatshop Watch 2000).

Such enormous concentrations in wealth and retail power over the past two plus decades have shifted the balance of control from manufacturers to retailers. With this shift, a handful of powerful retailers have increasingly been able to set the price at which the garment must be produced. Top-down price setting allows the retailer to control the manufacturer or jobber, who must then pass the price squeeze to those below them on the commodity chain -- workers (Greenia 2001). In order to secure profits amidst these price squeezes, the manufacturer or jobber (discussed below) must find the most competitively

priced contractors or subcontractors. With tens of thousands of contractors and subcontractors competing for work, wages are kept to a bare minimum.

In this fiercely competitive environment, contractors and subcontractors feel enormous pressure to cut corners and “sweat out” the labor from their workers, in order to secure increasingly slim profit margins, and stay in business. As a result, workers are frequently forced to endure sub-poverty wages in unstable, unsafe, and unhealthy work environments, because retailers have largely been able to divorce themselves from the human costs of producing the garments that they sell. In sum, the apparel industry remains an excellent example of the processes of capitalism described by Karl Marx one-hundred and fifty years ago.

How did a handful of retailers accumulate so much power? According to Bluestone et. al. (1981), the “retail revolution” had two phases. The first phase began in the late 1970s and early 1980s with the national franchising of department stores. By 1977, four large holding companies -- Federated Department Stores, Allied Department Stores, May Department Stores Company, and Dayton Hudson Corporation -- owned 807 retail outlets, the vast majority of America’s locally based department store chain outlets (ibid. 1981).

With the economic downturn, and the subsequent shrinking of the middle-class, a new market was created for off-price and discount store chains (Cheng and Gereffi 1994), as well as niche stores that appealed to more specific age, income, and ethnic groups among the buying public. Within a ten year span, smaller, traditional higher-priced retailers became less able to compete with the onslaught of low-end goods produced and sold for “power retailers” like Wal-Mart and Kmart (Rosen 2002).

Consequently, by the late 1980s and early 1990s, the major players engaged in widespread mergers and acquisitions, forcing many of the smaller retailers out of business.

Corporate restructuring also brought about other significant changes in the industry. Significantly, over the past two and half decades, apparel has become increasingly fashion-based. In order to stimulate and maintain high levels of consumer demand in an increasingly saturated market, retailers have adapted by producing more rapid style changes. For example, less than 30 years ago, traditional retailers changed their merchandise an average of 3.3 times a year. Today's retailers change their mix of merchandise more than twice as often (Rosen 2002). And, according to Bonacich and Appelbaum (2000), many fashion-oriented firms (most notably in L.A.) change their clothing lines every month.

New "quick response" technological innovations at the upper-end of apparel, has allowed the industry to keep pace with frequent style, color, and fabric changes, which, coupled with intense marketing campaigns, increases consumer demand and clothing purchases. Moreover, "quick response" technology has allowed retailers to sell smaller batches of clothing closer to the point of sale, which has helped retailers limit the traditional excess of inventories, mark-downs, overstock, and other operating expenses. Of equal benefit, new technology, including bar coding and electronic data control systems, has even helped retailers collect demographic data from the consumers at the point of sale (ibid. 2000). This undoubtedly helps retailers plan more efficient and profitable marketing strategies.

With these technological innovations, retailers can not only enhance efficiency,

but can also use technology to track the production and location history of garments. As reported by the textile and apparel resource magazine *JustStyle*, tracking the entire supply chain from top to bottom has now become a fiscal necessity (as opposed to an impossibility) (Greenia 2001). From the apparent vantage point of large retailers however, there presently appears to be little legal or financial incentive to use this technology in a manner that would also help workers. The example below speaks to this point.

In the EPZs in the Guangdong Province of China, apparel workers for Wal-Mart work between twelve and thirteen hours a day, six to seven days each week. A National Labor Committee investigation (2000) of apparel pay stubs showed that workers earned from three to ten cents an hour. Despite these paltry wages, nearly half of the workers surveyed by the NLC actually owed their company money after employee deductions were taken from their paychecks for dormitory fees, food, job placement fees, temporary residency permits, and various fines. When the Chinese Wal-mart workers protested similar conditions, all were fired (NLC 2000).

Ironically, when examples such as the one above come to light, retailers often claim that they were unaware of the abysmal conditions under which their clothing was made. By outsourcing labor, both retailers and manufacturers can legally claim that apparel assemblers work exclusively for the various contractors and subcontractors who employ them. In doing so, retailers and manufacturers can avoid both tax liabilities and labor laws legally required of traditional employers (Howard 1997).

Although several attempts at joint liability legislation have been initiated over the past decade by the ILGWU (subsequently UNITE; now named UNITE HERE) <s>12,

industry lobbyists have strongly opposed any attempts at regulation, and have threatened to move their companies overseas, should such legislation pass. To date, no federal law exists that holds retailers or manufacturers financially liable for labor law violations that occur in either legal or illegal contracting shops ¹³ (Bonacich and Appelbaum 2000). As of this writing, New York is the only state to hold manufacturers and contractors or subcontractors jointly liable for labor law violations.

Manufacturers and Jobbers

Directly below the retailer in the commodity chain is the manufacturer or jobber. The manufacturer designs garments that appear under their brand (or label), supplies textiles and materials, arranges for production (usually with independent contractors), and wholesales the finished garments to the retailers (Bonacich and Appelbaum 2000; and GAO 1994). According to Bonacich and Appelbaum (2000), the term manufacturer is ordinarily used to describe businesses that own and operate their own factories. This term is used correctly when referring to companies that produce in-house. For example, in New York City, where the more stable men's ware predominates, the term manufacturer more accurately describes this structural sector, than in fashion-sensitive Los Angeles, where most "manufacturers" neither own nor operate their own factories (ibid. 2000).

Similar to the role of the manufacturer, the jobber also sets or negotiates the price for the garments, obtains the financing, buys fabric and sizes, cuts and bundles them for production, and markets them to retailers. Unlike the manufacturer however, the jobber does not produce the garments in house or employ any of the production workers.

Instead, a jobber contracts out all production to independent contractors or subcontractors (Mazur 1998).

Today, most manufacturers are principally designers and marketers. If the retail buyers like a particular manufacturer clothing “line” (a part of a larger design collection), the retailers order the number of garments that they want. Contracting arrangements are established only after the retailer has ordered the specified number of garments from the manufacturer or jobber. From the perspective of the manufacturer, this allows for greater flexibility, by only responding to orders that have been placed. For the contractor however, he (rarely she) never knows when or if his next order will be forthcoming (Bonacich and Appelbaum 2000)

The Contractors and Subcontractors

Below the manufacturers or jobbers in the apparel chain are the contractors and subcontractors. The contractors hire sewing machine operators, cutters, pressers, ancillary workers, and supervise the actual production of garments (Mazur 1998). To further save on costs, the contractor can also subcontract out work to another (usually unregistered) shop, who may then outsource the work to industrial homeworkers (for discussion of homework, see endnote 1).

Customarily, garment contractors employ few workers in their shops. The Department of Labor data rarely distinguish the number of contractors from the number of legally registered manufacturers. . However, at least in California, the DOL uses state registration lists to obtain contractor samples. Bonacich and Appelbaum (2000) estimate that in Los Angeles County (the largest apparel producing region in the U.S.), most shops

employ less than 20 workers. Abernathy, Dunlop, Hammond, and Weil (1999) report that there are approximately 6500 apparel firms operating in CA, and that 75% (n=4875) employ less than 20 people. According to the authors, approximately 45% have four or fewer employees.

Likewise, Jay Mazur (1998) former UNITE president, estimates that over half of the garment contractors in the U.S. employ fewer than 20 workers. In a national DOL study cited by Appelbaum and Bonacich (2000) in 1998, the Department found that the average contractor's shop employed thirty-three people.

In addition to their ordinarily small size, contracting shops are generally undercapitalized, short-lived businesses. Operating as "outside" independent entities, jobbers and manufacturers do not assist in the capital investment of contracting shops. Consequently, contractors themselves pay the costs of operating a garment factory or shop. Because of the relatively low capital start up, little technological knowledge, ease with which contractors can set up shop, and the potential to earn an adequate (and sometimes very good) standard of living, contracting remains an attractive employment option for immigrants with sufficient education and capital to invest (ibid. 2000).

With the concomitant increase in immigration, garment imports, and "flexible" production however, contractors must operate in an increasingly cutthroat environment. Largely because of these factors, contractors often resort to illegal labor practices, which in turn jeopardize the livelihood of legitimate, law-abiding contractors. Thus, as contractors are pitted against a plethora of illegal (and legal) shops, each tries to be more "flexible" (i.e. competitive) than the next. As Mazur (1998:143-144) states, "contractors cannot compete based on different production methods, machinery, or other efficiencies.

They compete based on offering a lower price for producing the garment. [Thus], the jobber [or manufacturer] controls labor standards by forcing the contractor through fierce competition to drive down wages.”

The benefit of the contracting system to retailers and employers is immense. As Bonacich and Appelbaum (2000) articulate, outsourcing to contractors provides the following benefits: externalization of risks; reduction of worker-related costs; provides legal (and moral) evasion of labor law violations; and severely limits efforts to unionize workers. Each of these “benefits” allows the retailers and manufacturers to distance themselves from the harms that their industrial structuring and practices create, while conveniently creating an immigrant “middleman” scapegoat to pin all of the troubles of the industry upon. As the director of one garment industry association stated, “if Asians would just stop abusing their own, we’d be rid of sweatshops” (Volpp 2002:507). By pathologizing particular cultures (Koreans, Chinese, etc.), retailers and manufacturers can frame the discourse surrounding immigrant contractors as deviant “cultural oppressors” devoid of any macro-structural political, economic, or social context. For example,

The assumption that immigrants bring with them to the United States a less democratic and more inhumane culture....deflects attention from multiple sources of labor abuse. Workplace violations against immigrant workers are not connected to: the lack of U.S. labor enforcement; historical legal relationships such as subcontracting that were explicitly created and judicially sanctioned... to immunize companies from legal responsibility; the support of the U. S. government for greater rights for corporations; or the pursuit of profit by transnational corporations on the global assembly line (Volpp 2002:511).

The Workers

As discussed in chapter one, drastic increases in offshore production has led to a

concomitant rise in low-wage imports. As wages spiral downward in developing countries (due in part to the increases in corporate-led globalization), more and more immigrants have entered the U.S. desperate for almost any type of employment. Although the Department of Labor's Bureau of Labor Statistics and the Bureau of the Census do not collect citizenship data on apparel and textile workers, virtually all of the garment literature notes that apparel workers are overwhelmingly foreign born, most of whom have emigrated from the many countries of Asia and Latin America (Bonacich and Appelbaum 2000; Green 1996; Ross 1997; Louie 2001; Petras 1992; Rosen 2002; Sweatshop Watch and Korean Immigrant Worker Advocates 1996; Su 1997; UNITE HERE 2004; and Volpp 2002). According to the joint BLS and Census Bureau Current Population Survey (2003b), of the 341,000 sewing machine operators in the garment industry 38.5 percent are Latina/o, 13.9 percent are Asian, and 14.2 percent are African American.

Adding to the vulnerability of occupying a subordinated gender, immigrant, race, and/or ethnic status in the U.S., workers must also compete with the most exploited labor populations around the globe. In doing so, workers are forced to accept whatever their contractors are willing/able to pay them. The increase in world poverty, and attendant rise in the number of U.S. immigrants heightened by corporate globalization, has only made capital stronger in controlling virtually every aspect of how the industry operates.

For the apparel assemblers (particularly the sewing machine operators and pressers), the work is largely de-skilled, does not require any English, and is labor intensive. As stated in the industry overview subsection above, sewing machine operators comprise the largest number of apparel production workers in the industry. The job of the

sewing machine operator is to assemble or finish clothing or non-clothing, accessories, furnishings, etc.. According to the DOL (2003), most sewing functions require operators to specialize in only one specific sewing function, though factories and shops that employ “team assemblers” allow workers to perform all of the different tasks assigned to the assembly team.

Undoubtedly, apparel workers perform highly particularized, repetitive, and mundane tasks. While the nature of apparel production harms workers in terms of health, safety, and compensation, the organization of apparel production work is of great benefit to the industry. From a corporate perspective, specializing in a single (or limited number of tasks) promotes efficiency. By training workers in limited, repetitive tasks, it is less likely that workers will learn other aspects of production (which in turn would increase their skill set and marketability). In short, the production process is designed to create and maintain a low-skilled, dependent, and expendable labor pool.

In addition to how the gendered division of labor fosters exploitation, the industry also benefits from the cultural aspects of the contractor/employee relationship. The [male] contractors (mostly immigrants themselves) rely upon the paternalistic relationships that characterize unequal gender relationships (both at work and at home) to ensure docility and compliance among their workers. As previously discussed, the contractor may exploit informal social networks in the community to procure a cheap, compliant labor pool. Often abusing the familiarity and trust that the worker has for the contractor, the contractor may beguile the worker into accepting an informal contract, which then enables him a much greater opportunity to falsely report worker hours and wages.

Lacking the education, skill, and opportunities for advancement associated with better paying forms of employment, many workers feel trapped with few or no other viable work options. And, while some immigrant workers do attempt to fight back against exploitive labor practices (see Louie's *Sweatshop Warriors*), these efforts are constantly being thwarted by threats of deportation, job loss, anti-unionization policies, illnesses, injuries, and by the sheer exhaustion from excessive work hours and grueling labor conditions.

An additional hardship faced by apparel workers is that most are paid by the piece-rate system. In the piece rate system, workers are paid according to each procedure they finish. For example, a worker is paid a certain amount for every zipper that is attached to a pair of pants, or every skirt that is hemmed. As discussed in chapter one, one of the major compensation problems with the piece rate system is that the rates are determined by what the manufacturer pays to the contractor or subcontractor. In doing so, if the manufacturer does not compensate the contractor sufficiently (which is normally the case), the worker winds up earning sub-poverty wages (Louie 2001).

Moreover, when workers become too proficient, contractors often penalize their productivity by paying them the minimum wage rate rather than piece rate. Conversely, if worker productivity is not high enough, workers' piece rates save contractors money, as their output rate is lower than the minimum wage (Bonacich and Appelbaum 2000). Other obstacles that workers often face include: paying for their pay checks in order to "get on the books"; coping with cultural backlash within immigrant communities (i.e. pitting Chinese mainlanders against immigrants from Hong Kong); racial and ethnic discrimination; sexual harassment; threats of INS referral; blacklisting by contractors

against workers who speak out; and a myriad of work-related health and safety problems.

Let us now turn our attention to the role that gender plays in the creation and sustenance of the American and global sweatshop.

Theorizing the Gendered Nature of Corporate-State Crime in the Apparel Industry

Research Question Three: Does the apparel industry and the State engage in the hyper-exploitation of gender to further each of their respective interests?

Any analysis of apparel workers and the garment industry must be rooted in an understanding of the role that gender plays in affecting and executing corporate and state strategies and practices. Moreover, these strategies and practices must be examined within the context of global patriarchal relations, which generally are most acute in the world's poorest countries. For the present analysis, theorizing gender centers a key, but often neglected variable that profoundly impacts one's type of work, occupational environment, and status within one's industry and occupation. Theorizing gender also permits us to analyze corporate and state decision-making that often uncritically passes as genderless or gender-neutral action. To this end, we will examine the overwhelmingly female-occupied apparel workers in terms of what Groves and Lynch (1990) term "structured life choices."

The basic premise of structured life choice is that human agency is in part determined (or structured) based upon a variety of intersecting structural, cultural, and individual-level factors or variables. Certain human classifications like gender, race, and ethnicity, for example are unchangeable "ascribed" statuses. These classifications are given meaning by the relative value assigned to each in a given society. Further, these

classifications intersect with one another, so that occupying multiple privileged or subordinated statuses will tend to enhance or constrain one's life opportunities respectively (Lynch, 1996).

To give a more concrete example, a person who occupies the gender category male, the racial category Caucasian, comes from the middle-class, and the citizenship category American-born, can generally expect to have access to a broader range of life choices relative to a middle class person who occupies the gender category female, the racial category Asian, and the citizenship category foreign-born. Put another way, the meanings that a given society attaches to human classifications like race, gender, class, age, immigration status, ability, etc., have real consequences in terms of shaping the quality of one's life. These variables may include such things as access to safe, sanitary, and affordable housing, decent education, a living wage, and basic health care (Lynch, Michalowski and Groves 2000). By examining gender (as well as immigration status, race, and ethnicity) within the context of structured life choice, we can more readily see the many ways in which these classifications influence the conditions and opportunities affecting one's life, and for the purpose of this analysis, one's employment opportunities and conditions.

To understand how sweatshop conditions exist for apparel workers (especially women workers) at the bottom, we must first review what we have learned about the top. Specifically, in what ways do state and corporate agendas and practices exploit domestic and global hierarchical gender relations, in the apparel division of labor?

In chapter one, we discussed how from its earliest inception, apparel production was relegated first as unpaid "women's work" inside the home, and later as one of the

earliest and most poorly paid forms of labor in which women were allowed to participate.

Exploiting both essential skills and needs, historian Nancy Green (1996:414) maintains

the garment industry is perhaps one of the most transparent examples of capitalism's use of patriarchal schemas to link women's reproductive functions to their productive ones. Outwork and homework find a justification in a discourse based on the need [for] women to stay at home with their children and take care of the domestic chores. Homework is linked to housework, production to reproduction.

By promulgating the notion that women are "naturally" suited for sewing work due to their supposed patient nature, manual dexterity, nimble fingers and sense of style (ibid. 1996; and Rosen 2002), apparel employers can shift the discourse away from structural and cultural determinants to biologically-based factors that link women and sewing (for discussion related to law, see Rhodes, 1998). Moreover, this essentialist paradigm reifies women's occupational segregation and low wages in the apparel industry (Rosen 2002).

Ironically, despite women's professed superior sewing talent, women apparel workers are usually paid less than their male counterparts, even when they are performing identical tasks or out-producing their male counterparts. According to the International Labor Organization (2000), during the late 1990s when there were roughly 30 million workers in the global textile, clothing, and footwear industries, 80 percent of the lowest-wage production workers were women. More specifically, male workers earned wages that were generally twenty to thirty percent higher than female garment workers (ibid. 2000).

Also, according to Moran (2002), most frequently, the wage difference occurs for no other reason than because contractors and subcontractors believe that young women and girls (especially immigrants), can be paid less because of their perceived docility,

and because their employers believe that they are less likely to complain about disparate treatment than their male co-workers.

In the U.S., immigrant women and girls (particularly those lacking citizenship), are indeed the most exploited apparel workers of all. As Bonacich and Appelbaum (2000:174) contend, “in general, there appears to be a strong correlation between the status of one’s occupation and status as a citizen.” Not surprisingly then, women from less developed countries comprise the majority of migrants seeking among the least compensated forms of employment in the U.S.: maids, vendors, maquila operatives, and service industry workers (Louie 2001).

In justifying lower wages for women apparel workers, shop and plant owners often claim that women require only a supplement to the main family income (ibid. 2002). The reality however, does not support this opportunistic assumption. Both globally and domestically, the majority of women garment workers are single, divorced, widowed, or otherwise the sole or primary wage earner for the household (ibid. 2002).

In export processing zones, women workers constitute approximately 80 percent of the workforce (Rosen 2002). Still, even when women comprise a larger proportion of the skilled labor in the plant or shop, they are rarely in supervisory or management positions (Moran 2002). Such examples speak volumes to the patriarchal gender norms surrounding the value of women’s labor relative to men.

Overwhelmingly represented in the lowest tier of the apparel division of labor, women workers are particularly vulnerable to employer abuses and harassment. For example, in Bonacich and Appelbaum’s (2000) research of the Los Angeles apparel industry, they found an absence of formalized rules, regulations, and grievance processes

in the shops they surveyed, and a lack of corporate and governmental oversight of the illegal practices that factory owners and supervisors used to maintain control over their employees. Specifically, Bonacich and Appelbaum (2000) reported the following types of employer harms against workers: forbidding workers to take restroom or water breaks, demands for sexual favors, arbitrary punishments (including switching workers to old, slow machines, as a way of limiting their pay), arbitrary firings, and complaints of being verbally and physically abused by factory owners and supervisors. Such practices are intended to intimidate an already vulnerable worker population into tolerating (or at least not contesting) abusive and demeaning work conditions.

Other exploitive gender-specific employer practices include singling out women and girls for layoffs when the slow season arrives (Louie 2001), requiring women workers to take birth control pills, mandatory pregnancy testing, and firing women workers who become pregnant while employed with the apparel shop (in the U.S., a violation of the 1993 Family and Medical Leave Act) (Millen and Holtz 2000). In Tijuana, it is not uncommon to assign hazardous and difficult jobs to pregnant women so that they will leave “voluntarily” before the company must legally pay maternity benefits (Rosen 2002). Most egregiously, Millen and Holtz (2000) report that in the Northern Mariana Islands, some transnational apparel companies have required pregnant workers to terminate their pregnancies in order to keep their job.

While most of the above examples appear to stem from plant and shop owners (i.e. contractors and subcontractors), these harms can only be sustained in a corporate-state environment that privileges power and profits over worker welfare, compensation, and safety, from the top to the bottom of the commodity chain. As Robert Ross (2002)

articulates in his review of Rosen's *Making Sweatshops*, "[in helping to create the globalization of the U.S. apparel industry]...the U.S. sacrificed its apparel workers [first] on the altar of the anti-Communist crusade and then of free trade ideology." By pursuing a domestic State policy of tariff phase outs, unprecedented allowances of low-wage imports, and a laissez-faire approach to corporate mergers, acquisitions, retail monopolization, union avoidance, and capital flight, the State knowingly and willfully disregarded the welfare of an entire category of its own apparel production workers.

As evidence of these policies, apparel "restructuring" in the U.S. has caused a greater loss of jobs in the past thirty years than in any other manufacturing industry in the country (Rosen 2002). Moreover, according to the Department of Labor's, Bureau of Labor Statistics (2003), wage and salary employment in the apparel industry is expected to decline 16 percent through 2010, compared with an increase of 16 percent for all other industries combined. Also, since most of these workers are women, and since most women apparel workers are re-employed in feminized employment service sectors, these workers tend to be permanently downwardly mobile (ibid. 2003).

Moreover, in following these imperialist-global capitalist paths, first in Asia, then in Latin America, the Caribbean, Mexico, and sub-Saharan Africa, the U.S. gave grossly insufficient consideration and protection to the lives of workers and citizens (the world over) who would be most harmed by these policies. Today, virtually every continent is effected by the apparel trade, as well as the U.S. dominance of global trade policies. And, as Wonders and Danner (2002) articulate, the key engine fueling this globalization could not exist without the hyper-exploitation of women.

We conclude this section with an example of one transnational retailers'

participation in corporate-state malfeasance, and the manner in which this mega-retailer operates. Nike is one of the largest and most widely recognized athletic shoe companies in the world. Its television commercials in the U.S. are known for promoting empowerment among a diverse group of athletes, most notably women and racial minorities. Nike's clever marketing campaign however, belies the treatment of the global workers who produce its athletic ware.

Specifically, Nike, an American-owned company, has always had all of its production factories overseas. More than one-third of Nike's products are manufactured in Indonesia, where New York Times columnist Bob Herbert (1996) reports that the minimum wage was deliberately set below the subsistence level in order to increase foreign direct investment. In addition to having a dismal human rights record, Nike founder and CEO Phil Knight pays workers in Indonesia \$2.20 a day, while his own Nike stock is worth \$4.5 billion (ibid. 1996). Such corporate practices (in this example) aided by the Indonesian government, create a form of double exploitation where third-world workers are paid a pittance abroad, while consumers (particularly in the U.S. and elsewhere) pay grossly inflated prices that have little connection to the cost of actually producing the product.

Finally, in theorizing the gendered nature of corporate-state malfeasance in the apparel industry, we must also consider the "hidden" retail practice of ubiquitous consumer marketing. To say that something is both hidden and ubiquitous may at first appear to be an oxymoron. However, retail marketing in recent decades has become so pervasive and entrenched in our cultural psyches, that consumerist desires can often appear organic rather than carefully created, orchestrated, and manipulated by skillful

industry marketers. The message proffered by advertisers is to “consume, consume, consume” in an already satiated first world market, while ignoring the fact that most third world workers assembling these clothes toil in excess of 12 hour days earning in one day less than half of the federal U. S. minimum wage.

Let us now turn our attention to the role that the State plays in shaping the laws that impact worker health and safety in the U.S. In the following chapter, I will discuss the evolution of occupational safety and health legislation in the U.S., and the political and economic climates effecting occupational safety and health decision making and practices.

Chapter Three

The Political Economy of Worker Health and Safety Legislation in America

Qualitative Research Question Four: Did State regulation impact occupational injuries and illnesses in the apparel industry?

The Origins of Worker Health and Safety Legislation

This chapter explores a topic not commonly addressed by criminologists: occupational safety and health legislation (for an exception see, Frank, 1993, 1986, 1985; Frank and Lynch, 1992). No discussion of contemporary labor conditions in America is complete without an understanding of why and when occupational health and safety laws were created, what types and in what context these laws were developed, and what influences have helped shape the makers, breakers, and enforcers of occupational safety and health laws. It is important to note here that similar to U.S. labor law in general, occupational health and safety legislation (with notable exceptions) is not industry-specific. While there are no apparel-only safety and health laws, the laws that do exist are generally *intended* to cover this industry.

In examining the history of occupational health and safety legislation, we uncover how political, economic, and social forces have shaped the structure and culture of the apparel work environment, the technology and tools used in the process of production, the relationships between capital and labor, and the relative safety or hazardousness of every American workplace. As such, we begin our discussion by examining the coalescing forces that prompted the nation's first safety and health labor laws.

Although the American Industrial Revolution began in the late 1700s, the safety and health considerations of factory and other laborers were almost entirely ignored by the State for nearly one hundred years. Recalling chapter one, labor legislation in general came only after years of extreme labor abuses and intense struggle in states most populated by the major waves of European migration. Likewise, many of the earliest laws aimed at protecting the health and safety of workers were created in the most industrialized states, including Massachusetts, New York, New Jersey, Pennsylvania, Ohio, and Illinois (Wooding & Levenstein, 1999). Home to one of the nation's first industries, Massachusetts passed the first child labor law, created the first bureau of labor statistics, and in 1877, passed the first state factory inspection law in the country, allowing for government-paid factory inspectors (Rebinowitz 2002). By 1890, twenty-one states had some type of worker health standard concerning accident prevention and workplace ventilation, and by 1920, thirty-five states had health and sanitation provisions, some of which required hazardous dust and fume removal for selected industries (Wooding & Levenstein 1999). Standards varied widely by state, and were largely enforced by inspectors who had little or no scientific background or training.

Related to this history, workers' compensation laws, commonly regarded as the catalyst for industrial hazard prevention by employers, began to form early in the twentieth century (U.S. Department of Labor 1998). Coverage began with civil employees and spread as states passed laws through the last half of the century (ibid. 1998). According to Wooding and Levenstein (1999:76), "by 1914, twenty-one states had compensation laws, and by 1950 all states had enacted some form of workers' compensation."

The fact that workers' compensation laws developed more rapidly than worker health and safety laws most likely reflects the privileging of business interests in being able to determine the conditions of the work environment. With workers' compensation legislation only, businesses could control what health and safety practices they wished to adopt in the workplace. State mandated safety and health requirements for businesses could undoubtedly be far costlier and more burdensome for employers to adopt. By mid-century, industrial hygiene programs were forming and becoming law in most states (U.S. Department of Labor, 1998). As defined by OSHA (DOL, OSHA 2003:2) industrial hygiene is the science of the "study and control of occupational disease and other environmental factors affecting employee health."

At the federal level, issues of occupational health at this time were mainly research topics rather than the focus of targeted legislation (Nothstein 1981). Not until 1936 did the federal government finally become involved in occupational safety and health regulation with the passage of the Walsh-Healey Public Contracts Act (Mintz 1984). The Walsh Healy Act allowed the Department of Labor to dictate certain safety standards for federal government contract work (Wooding and Levenstein 1999). A decade later, the Labor Management Relations Act (LMRA), despite its basic antagonism toward labor rights, contained one safety and health provision that allowed employees to walk off a job that was "reasonably believed" to be especially dangerous (Nothstein 1981).

The year after LMRA's passage, President Truman initiated the first conference on industrial safety. The Eisenhower Administration continued this tradition, though no substantive legislative advancements were seen in worker health and safety legislation

until the mid-1960's. From the vantage point of the State, the increasing costs of insurance claims and workers' compensation payments, coupled with lost production time, were presumed to be sufficient incentives for most employers to provide safe work places (ibid. 1981). As Nothstein (1981:3) asserts "greater productivity and safer working conditions were thought to go hand in hand, since fewer injuries meant more time on the job and more production."

Increased productivity and efficiency for industry and increased compensation for labor, however, did not necessarily translate into safer workplaces. According to Wooding and Levenstein (1999), safety standards at the time were narrow, largely cosmetic, and poorly enforced by inspectors lacking the necessary professional training in key fields like medicine, engineering, and chemistry. Moreover, workers' compensation payments by employers did not provide the deterrent effect that the State had presumed. As we shall see in the following section, by 1960, many American workplaces were still extraordinarily dangerous.

1960s to the Emergence of the OSH Act

The limited role of the government began to widen in the 1960s with the Congressional enactment of a collection of Acts, including the Contract Work Hours and Safety Standards Act, the Construction Safety Act, the Service Contract Act, and the National Foundation on the Arts and Humanities Act. As before, the Acts only covered a limited number of employees and industries (Nothstein 1981). However, in 1965, the Public Health Service published the report "Protecting the Health of Eighty Million Workers" (most commonly known as the Frye Report). The Report, widely promoted by

AFL-CIO staff economist George Taylor, set in motion key recommendations that would inform later legislation. Although the specific recommendations of the Report were not adopted, it drew the attention of health professionals to workplace safety and health issues, thus galvanizing an important component of the scientific community that had not existed previously (Wooding and Levenstein 1999).

It is worth noting here that although research in occupational medicine had existed since the early 1900s, limited government, as well as medical community responses to workplace dangers prior to the late 1960s largely ignored occupational illnesses and diseases. Likewise, it is worth noting that labor leaders were also limited in their responses to workplace injuries and illnesses until this time. As Wooding and Levenstein (1999:83) contend “union leaders responded only when rank and file activism indicated growing unrest among workers about job safety and health, or when they realized the value of finding a new issue to garner rank and file support.”

Returning to the Frye Report, following its release, Congress enacted further measures to protect workers in the mining industry with the passage of the Federal Metal & Nonmetallic Mine Safety Act in 1966 and the Federal Coal Mine Safety & Health Act in 1969 (U.S. Department of Labor, 1998). In the midst of these Congressional efforts, President Johnson proposed an occupational safety and health program like none previously in place in the U.S. Congressman O’Hara and Senator Yarborough introduced the bills on behalf of the Administration, with key assistance from Secretary of Labor, Willard Wirtz (Mintz 1984). In his testimony before the Senate in 1968, Wirtz drew a stark picture of workers’ safety in the United States:

Every minute we talk, 18 to 20 people will be hurt severely enough to have to leave their jobs—some of them never work again. In the time

these two sentences have taken, another 20 people—one every second—have been injured on the job—less seriously, but in most cases needlessly. Today’s industrial casualty list—like yesterday’s—and tomorrow’s—and every working day’s week after month after year—will be 55 dead, 8,500 disabled, 27,200 hurt...The clear, central issue in S. 2864 is simply whether the Congress will act to stop a carnage which continues *only because people don’t realize its magnitude*, and can’t see the blood on the things they buy, on the food they eat, and the services they get (*Hearing on S. 2864*, 1968:69).

Despite the fact that by the late 1960s, job related accidents accounted for more than 14,000 annual deaths, 2.5 million job related disabilities, and an estimated 300,000 new cases of occupational disease (OSHA 2003), industry employers eschewed the program proposal and blocked the passage of S.2864 and H.R. 14816 (Mintz 1984). One year later, the 91st Congress took up the issue again, where a pair of bills was introduced in both the House and Senate (Nothstein 1981).

Predictably, major disputes centered almost entirely on labor-management lines with labor endorsing a bill sponsored by Senator Harrison A. Williams Jr., and Congressman William A. Steiger, and management favoring the Administration’s version. Numerous hearings and conferences were held on the issue, in an attempt to find a common ground between labor and management concerns (ibid. 1981). As Nothstein (1981:4-5) documented, by the following year, “agreement was finally reached between the conferees on the general duty clause, imminent danger clause, and priorities for inspection, investigations, and recordkeeping.” On December 29, 1970, President Nixon signed the OSH Act into law.

The OSH Act “assure[d] so far as possible every working man and woman in the nation safe and healthful working conditions....” (OSHA 2003). In addition to creating OSHA, the OSH Act created the National Institute for Occupational Safety and Health

(NIOSH) as its research branch under the Department of Health and Human Services. NIOSH researches various occupational safety and health problems, provides technical assistance to OSHA, and recommends official standards to be considered by OSHA for policy adoption (ibid. 2003). The OSH Act also created the Occupational Safety and Health Review Commission (OSHRC), which reviews appeals and contested inspection, results by businesses (Levenstein and Wooding 1997).

Under the purview of the Act, the Assistant Secretary of Labor (also known as the OSHA Director) was granted authority to enact the following:

Promulgate safety and health standards; conduct inspections and investigations, issue citations and propose penalties; set abatement fines for correcting unsafe or unhealthy work conditions; require employers to keep records of job-related injuries or illnesses; petition the courts to restrain imminent danger situations; approve or reject state plans for administering and enforcing the Act; provide information and advice to employers and employees concerning compliance; and provide evaluative, consultive, and promotional programs to assist federal agencies in implementing job safety and health programs for federal employees (OSHA 2003).

OSHA: The First Decade

Although Nixon signed the OSH Act into law and effectively created the Occupational Safety and Health Administration (OSHA) and The National Institute for Occupational Safety and Health (NIOSH), OSHA remained largely symbolic until the Carter administration took office. Levenstein and Wooding (1997:70) note that, “under the Nixon and Ford Administrations, a hostile White House and, for the most part, indifferent administrators left the agency adrift, reluctant to set or enforce standards, let alone explore the more radical possibilities inherent in the Act.”

Immediately after OSHA’s passage, the Nixon Administration adopted the relatively

lax 450 health standards used by the old Bureau of Labor Standards. The old labor standards were largely developed by private industry over the course of several decades, and most were created with little or no scientific evidence to support their adoption. As such, from its very inception, OSHA positioned itself to be unable to control health hazards in American industry (Wooding and Levenstein 1999).

During OSHA's first three years, only three new health standards were adopted. Further, OSHA failed to use package regulations on fourteen suspected carcinogens, favoring instead the more limited approach of individual based regulations. Likewise, in enforcement, few inspectors were recruited to the new agency, and the relatively rare application of fines served offered little deterrent value. In the early years, the average fine for violating a safety or health standard was less than \$50, and the maximum fine for the most serious violations averaged only \$625 (ibid. 1999). Another problem in the early years was OSHA's small business focus. By centering mostly on small businesses, OSHA antagonized a group that would later use the rallying call of "entrepreneurial freedom" to successfully stymie many OSHA initiatives. This anti-state intervention, anti-regulatory populism was later employed by the Reagan and both Bush Administrations who were generally inimical to state intervention in the workplace.

Following President Carter's election, OSHA had mixed success. At the beginning of his term, President Carter seemed committed to maintaining OSHA's presence by appointing Dr. Eula Bingham, who ran the agency from April 1977 until January 1981.

As described in a recent Industrial Safety and Hygiene News (2005:8) article:

Emotional and combative, Bingham came out swinging, issuing rules on cancer policy, benzene, cotton dust, lead, employee access to exposure and medical records, chemical labeling (right to know) and hearing conservation. She chided business for expending "too much effort in opposing regulation as

a basic strategy," and was honored by the United Steelworkers for making OSHA "the kind of regulatory agency we had hoped it would be."

Despite Bingham's best efforts, neither she nor subsequent administrators could alter the fact that OSHA was designed with a stronger directive than its resources would allow. By the late 1970s, priorities began to shift with the economic crisis, and President Carter grew increasingly concerned about the burden that the OSH Act would place on businesses. More and more, regulation became dictated by "cost-benefit" analysis, which effectively limited the role of government when such action threatened the economic success of business (Zinn 1999). And, as in the past, final standard setting continued to progress at a glacial pace.

OSHA: The Deregulation Years

After Carter left office, the mild gains made by OSHA to protect workers were almost entirely lost. President Reagan's tenure in the White House led to the slashing of any power that OSHA had left. As Zinn (1999: 575) recorded

[Reagan] appointed as head of OSHA a businessman who was hostile to OSHA's aims. One of his first acts was to order the destruction of 100,000 government booklets pointing out the dangers of cotton dust to textile workers.

Zinn (1990:575-576) goes on to quote political scientist William Glover's criticism of Carter and Reagan:

OSHA appears caught in a cycle of liberal presidents—who want to retain some health and safety regulatory programs, but who also need economic growth for political survival—and conservative presidents, who focus almost exclusively on the growth side of the equation. Such a cycle will always need to subordinate the need for safe and healthful workplacesensuring that commitment to OSHA will only be as strong as the priorities of business will allow.

Other critiques of the Reagan years and their effect on OSHA support this assertion. Beginning with Reagan's tenure, the OSHA budget was cut, the number of inspectors fell, complaints from workers were discouraged, and a number of other actions resulted in an agency that was slow, moving toward voluntary compliance, and lacking in performance initiatives (Levenstein and Wooding, 1997). Because of Reagan's decision to move OSHA directly under the supervision of the Office of Management and Budget, the OMB created elaborate and near impossible hurdles to surmount in formulating new standards, while old standards were modified to provide policies more suitable to business interests (ibid. 1997; Wooding and Levenstein, 1999). This action not only weakened the agency, but also resulted in a loss of credibility in the eyes of employers and employees alike (Wooding & Levenstein, 1999).

Workers' Health and Safety Under the Clinton Administration

Similar to the Carter-Reagan policy shifts, Wooding and Levenstein (1999:96) note, “the Clinton administration seemed to offer a return to more liberal politics after over a decade of conservative ideology, though little was done to stem the decline in OSHA during its early years.” Demonstrative of this philosophical shift, in 1995, President Clinton and Vice President Al Gore co-authored and published a small booklet entitled *The New OSHA: Reinventing Worker Safety and Health*. In their text, Clinton and Gore (1995: 1-2) pointed out what they saw at the time as the two fundamental problems with OSHA: (1) the [economic] cost of occupational injuries and illnesses remained substantial (\$110 billion a year), despite the fact that overall occupational injury and illness rates had declined since the 1970s and (2) the public perception of OSHA remained one of an agency mired in red-tape and non-specific industry standards.

To remedy these problems, the President and Vice-President called for a three pronged approach that included strong, targeted enforcement, clear regulations, and a focus on the most hazardous regions of industry (ibid. 1995). Unfortunately for OSHA (and more importantly for workers), the plan did not include a protocol for dramatically increasing funding and staffing, nor did it address the various deficiencies in standard setting, inspections, enforcement and penalty collections. By shifting the measurement of OSHA’s performance from the total number of inspections to a “results oriented” measurement system, OSHA could focus on fewer, (and by its classification schema), more hazardous work sites. In short, the Administration hoped that the results orientation

of OSHA would provide the agency with more “bang for its buck” (Levenstein and Wooding 1997:409).

Beyond the Executive Branch’s window dressing approach to health and safety regulations, glaring gaps in occupational health education and training were little improved during the 1990s. Occupational health physician, Michael Lax (1996), notes that little time is spent in medical school curricula on occupational illness. In the early 1980s, four hours was the average length of time given to occupational disease in U.S. medical schools. A repeated study 10 years later showed similar findings (ibid. 1996).

In addition to the lack of uniform medical training in occupational disease, physicians rarely ask for a patient’s work history, which could provide important medical information about the types of toxic exposures with which the worker may have come into contact. This is particularly critical when one considers that the EPA only regulates a fraction of possible carcinogens that are produced each year, and that OSHA lacks regulations on most chemicals that have been identified as carcinogenic by the National Cancer Institute (Shapiro 1989). Raising awareness among workers and health care providers regarding at least some of these toxic exposures could provide an important catalyst for action, and could help force more rapid standard changes.

By President Clinton’s second term, a majority Republican Congress was in place, and would prove to be about as inimical to labor as either the Reagan or Bush Sr. Administrations. In 1997, Georgia Republican Representative, Charles W. Norwood, was appointed Chair of the 1997 House Subcommittee on Workforce Protections. As Subcommittee Chair, Norwood oversaw all OSHA legislation including the OSHA Reform Act of 1997—a Bill that unsuccessfully attempted to effectively abolish the

agency (Schlosser 2001). In this capacity, Rep. Norwood had this to say about ergonomic injuries: “many workers get repetitive-stress injuries not from their jobs, but from skiing and playing too much tennis” (ibid. 2001).

While the above exemplifies a gross disconnect with the labor conditions of millions of American workers, it also demonstrates the all too common history of appointing agency and committee heads whose political and/or economic agendas clash with the very organizations they are entrusted to serve.

To be sure, most examples of state malfeasance in this regard are not quite so overt. More common are the subtle practices that dilute the OSH Act, as when the 105th Congress enacted legislation prohibiting quotas from being used to rate OSHA employee job performance (Rabinowitz, 2002). While seemingly benign on the surface, the legislation helped create an official disincentive for OSHA investigators to inspect as many job sites as they were able. Rather, as stated previously, the new legislation helped to cement the increasing trend toward voluntary partnerships, outreach, and voluntary compliance with businesses. In the next section, I will discuss how trends such as these, have impacted civil and criminal penalties imposed on employers who violate OSHA standards, and will discuss the impact that President George W. Bush’s Administration has had upon the agency, thus far.

OSHA in the Twenty-First Century

Since the creation of the OSHA Act, U.S. employment has doubled, and now stands at nearly 115 million workers at 7 million job sites (OSHA 2003). According to OSHA (2003:3), each year almost 6,000 Americans die from workplace injuries; as many

as 50,000 workers die from illnesses in which workplace illnesses were a contributing factor; nearly 6 million employees suffer non-fatal workplace injuries; and the direct and indirect cost of occupational injuries and illnesses totals more than \$170 billion (an increase of \$60 billion in less than 10 years).

As evidenced above, the economic, physical, and psychological costs are immense. While overall workplace fatalities and occupational injuries and illnesses have markedly decreased since OSHA's passage (OSHA 2003), critics maintain that this has more to do with the transformation of the American economy and OSHA's methodology than it does a dramatic increase in the agency's performance (*Brill ;Wooding and Levenstein 1999*). The very fact that this under-funded agency spends just \$3 per worker each year in addressing occupational health and safety (*ibid. 1999*) demonstrates the [lack of] regard in which the State holds its workers.

Less than ten years ago, it was also estimated that in order for OSHA to inspect every workplace in the country (at the time, more than 6.5 million job sites), it would take just shy of nine decades (Wooding and Levenstein 1999; see also *The Demise of the Occupational Safety and Health Administration: A Case Study in Symbolic Action Calavita, Kitty, Social Problems, 1983, 30, 4, Apr, 437-448*). Today, there are 7 million job sites, and even fewer OSHA inspectors than there were a decade ago. Of these 7 million job sites, according to former OSHA director John Henshaw, only 2% are presently being inspected each year (Cohen and Goldstein 2004).

Cooper (2003) notes that at the beginning of the twenty-first century, OSHA was conducting about 36,000 inspections a year on a budget of about \$445 million, for 2003. Compared with the EPA, OSHA has a budget about ninety-four percent smaller (the EPA

has the largest budget of any federal regulatory agency, and is also the largest federal agency. OSHA polices workplaces – the EPA polices the entire U.S.). Arguably, these two agencies have different resources because OSHA is largely concerned with activities within the plant’s boundaries, while the EPA is mainly concerned with a plant’s impact outside of its boundaries (ibid. 2003). Nevertheless, there is little denying that OSHA is grossly underfunded.

In addition to budget limitations, which affect many federal agencies’, appropriation riders approved by Congress continue to block or hinder OSHA from undertaking particular actions, rather than mandating that it perform additional actions (Rabinowitz 2002). For example, in the mid-seventies, the first appropriation rider passed by Congress “excluded businesses with 10 or fewer employees from most of OSHA’s recordkeeping requirements” (Rabinowitz 2002:55). In industries such as apparel where many shops have fewer than 10 employees, this provides a license to contractors and subcontractors to simply ignore safety and health rules that are not cost-effective or convenient.

Other appropriation riders throughout OSHA’s history have included small farm exemptions, specific immunities for small businesses, exemptions for low injury rate industries, and the blockage of ergonomic safety standards (ibid. 2002). Such appropriation riders negate effective data collection practices, which in turn can disguise the nature and extent of harm in the workplace. Again, as exemplified in the apparel industry, OSHA excludes most garment shops from planned inspections, and does not include most shops in their survey data. Thus, it should come as no surprise that OSHA categorizes apparel as a low-injury rate industry since it omits the majority of smaller and

perhaps less safe workplaces from inspection. It is for these and other reasons why this author cautions against over-reliance on OSHA data for interpreting the direction, extent, and characteristics of occupational injuries, illnesses and fatalities in general, and in the apparel industry, specifically.

It should be emphasized that workplace injury and illness statistics need to be as detailed, thorough, and inclusive as possible. The more detailed and inclusive the data are, the more likely that harms will be counted, affected parties will be mobilized, and political and/or economic pressures can be applied to force more appropriate standards. Take but one example: the Mexican (and Mexican-American) worker. Although occupational injuries and illnesses overall have been decreasing in recent years, for Mexican workers employed in the U.S., the reverse is true. According to an AP investigation from 1996-2002 (Pritchard 2004), a Mexican worker gets killed on the job every day. In several Southern and Western U.S. states, a Mexican worker is four times more likely to die than the average U.S.-born worker (ibid. 2004). Ten years ago, Mexican workers were about 30 percent more likely to die on the job than native-born workers; now they are about 80 percent more likely. The AP (2004:1-2) investigation also reported that although the number of Mexican workers in the U.S. increased by about half (from four million to six million during 1996-2002), the number of deaths rose by about two-thirds from 241 to 387. Most disturbingly the AP (2004:2) report found that Mexicans are nearly twice as likely as the rest of the immigrant population to die at work.

In response to reports such as these, OSHA recently began to focus greater attention upon Hispanic workers, initiating new training programs for this purpose around the country. The programs are designed to target injury rates among Hispanics

that are twenty-three percent higher than all other ethnic groups (Ramstack 2003). Non-English speaking workers, especially immigrant workers, have multiple and intersecting vulnerabilities that put them at greater risk for workplace injuries and illnesses. As detailed in chapter two, these include communication barriers, fear of job loss, (or deportation if employed illegally), differing cultural perceptions of occupational risk, and a lack of knowledge surrounding U.S. labor laws. Collectively, these factors create an environment where occupational injuries and illnesses are prone to be significantly greater than they would be otherwise.

President Bush's move to relax immigration laws paved the way for OSHA's former administrator, John Henshaw, to lead an effort to extend workers' safety to include all workers, "regardless of their language or their immigration status" (Ramstack, 2003). Whether this will materialize into decreased injury and illness rates for immigrant workers in the future remains to be seen.

President George W. Bush's Stamp on OSHA

Under President Clinton, both Democrats and Republicans alike maintain that in the last few years, he put so much emphasis on the passage of the ergonomics standard that many other proposed rules were overlooked prior to his departure. In an unprecedented move, the new Bush Administration placed a temporary freeze on all pending rules passed toward the end of the Clinton Administration. Following the President's initiative, Labor Secretary Elaine Chao instructed the entire Department to find items to eliminate. By the end of 2003, Bush had eliminated over half of the 44 rules pending from Clinton's last days in office. Moreover, from 2000-2004, OSHA eliminated almost five times as many standards as it had completed, most of which were considerably narrower than the older standards being eliminated (Goldstein and Cohen 2004).

For example, one of the eliminated proposed standards, which had been under consideration since the Reagan Administration, would have updated the lists of hundreds of industrial chemicals to which workers could be exposed. By rejecting the proposed standards, the new Administration argued that it made more sense to regulate each substance, one at a time. Here we see that the Clinton Administration supported streamlining chemical exposure standards by relying on past scientific research, which was also an efficient means of updating OSHA's workplace standards. The Bush Administration, however, favored a much more bureaucratic, inefficient approach by requiring that each chemical be reexamined individually, and perhaps subject to further testing when this work had already been accomplished (see for example, Devra Davis's book, *When Smoke Fell Like Water* 2002).

OSHA's Inspection, Enforcement and Penalty Assessment Policies

OSHA is most known for its ability to cite employers for civil penalties due to violations of its workplace safety and health standards. As discussed previously, with its current number of investigators, OSHA is only able to investigate approximately two percent of the seven million work sites in America. Thus, its investigations tend to center around large, high risk industries and employment sites. Inspections can be planned or unplanned, and in the latter case, the employer is not legally granted advanced notice of OSHA's inspection. According to OSHA (2003), employers receiving advanced notice of an unplanned inspection can receive a criminal fine of up to \$1,000, or a six-month jail term or both.

Given that the Courts have generally granted businesses due process rights similar to or in excess of what is granted individual citizens, it is important to note that employers generally have the same protections that apply to state inspections, as well. In *Marshall v. Barlow's Inc.* (1978), the Supreme Court ruled that OSHA cannot enter any private premise for inspection purposes unless it first obtains either the employer's consent or a warrant issued by a court authorizing inspection. OSHA also must have probable cause for obtaining the warrant, though the Courts have generally granted OSHA's request to conduct their health and safety investigations (Kellman 1999).

Nevertheless, such a requirement is yet another added burden that OSHA must face when conducting inspections.

In terms of civil penalties, presently, the maximum penalty per OSHA violation is \$70,000 for a willful or repeated violation, and \$7,000 for a posting, serious, other than

serious, or failure to abate violation. On the failure to abate violation, OSHA may impose a maximum penalty of \$7,000 per day. According to OSHA (2003: 26), willful violations are when the employer intentionally and knowingly commits an offense, or when the employer commits the offense with plain indifference to the law. A serious violation is where the violation creates a substantial probability that death or serious harm could result and that the employer knew or should have known the hazard. Other than serious refers to a violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A failure to abate a violation refers to a situation where an employer fails to correct a previously cited violation before the prescribed abatement date. Employers may appeal inspection results; however, employees may not contest citations, penalties or lack of penalties imposed by OSHA (GAO 2003).

In a recent GAO (2004) study, the Office found many cases where OSHA inaccurately classified the gravity of offense in four of the five regions that they audited in 2002. In other words, the gravity of offense often did not comply with the types of injuries and illness that resulted from the violation. Moreover, the GAO (2004) found that OSHA improperly reduced employer penalties in four of the five inspected regions during 2002, and in three of the five regions in 2003. Other problems found included improper follow-up inspections of serious, willful, repeated, or imminent danger situations in three of the five regions in 2002, and two of the five regions in 2003. And finally, the GAO (2004) report found that documentation and management review of penalty determinations and reductions were improper or lacking in all of the regions in 2002, and in four out of the five regions in 2003. All of these problems have lead the

GAO to conclude that OSHA has much work to do in ensuring that the intent of the OSH Act is being followed, and that OSHA employees are complying with this legal mandate.

Let us now turn our attention to OSHA's enforcement of criminal health and safety workplace violations. As mentioned in the beginning of this section, OSHA is well known for its ability to impose civil sanctions on safety and health violations. What is less known is the extent to which the organization can insist on criminal enforcement of certain violations. Although OSHA cannot directly prosecute for violations, it can recommend and refer such requests to the Department of Justice (DOJ) (Byrum, et al. 2001). According to Byrum, et al. (2001) however, in most cases, the OSHA Area Director refers any potential actions to the appropriate Regional Administrator who will then usually determine with an OSHA Solicitor, whether or not to push the referral toward the DOJ. As we will see momentarily, OSHA does not refer the majority of even its most serious criminal violations to the DOJ, nor does the DOJ prosecute most of the criminal cases it receives from OSHA.

Criminal violations of safety and health laws include willful violations causing death to an employee, filing false statements to federal and state authorities, and disclosing the date of an upcoming inspection (ibid. 2001). A recent report by the New York Times (Barstow 2003:1) found that from 1982 to 2002, OSHA investigated 1,242 cases where it concluded that worker deaths were caused by their employer's "willful" safety and health violations. Despite the fact that these were criminal violations, OSHA declined to refer cases to the DOJ in 93% of those cases. More egregiously, at least 70 of the employers who caused willful violations that resulted in employee deaths were repeat offenders (many of whom had avoided prosecution for both the first and subsequent

offense(s). Equally as disturbing, according to Barstow (2003:1) is OSHA's reluctance to seek prosecution even when "the violations caused multiple deaths; when the victims were teenagers; and even where reviews by administrative judges found abundant proof of willful wrongdoing."

According to Barstow (2003), during this same 20-year period: OSHA referred just 196 of its 1,242 willful death cases to the DOJ. Although the DOJ declined to prosecute the majority of cases, they obtained 81 convictions (largely through pre-trial settlements). Only 16 cases resulted in jail or prison sentences.

The DOJ maintains that this is largely because killing a worker is only a misdemeanor under federal law, punishable by six months in jail, which is far less than an individual would receive for a manslaughter conviction. Even a subsequent conviction of a willful violation standard that causes the death of an employee does not increase the penalty standard. Further, DOJ (Nash 2004) maintains that, given the relatively vague language of the OSHA Act, it is extremely difficult to meet the "beyond all reasonable doubt" burden required of criminal cases. Finally, DOJ claims that since very few OSHA compliance officers are trained to investigate criminal cases, they often unintentionally "botch cases" which then cannot be used by federal prosecutors (ibid. 2004).

In the next chapter, I will outline the meaning that OSHA's inspection, enforcement and penalty process has for the apparel industry and its workers, and in the conclusion chapter, what needs to be done to make OSHA a more effective agency in protecting the health and safety of American workers.

Chapter Four

The Government's Response: A Crime by Any Other Name

Policing the Apparel Industry: Compromising Worker Safety, Health, and Compensation through Regulatory Sabotage

It is important to note the linguistic and pragmatic differences regarding the control of business/corporate crime and deviance committed by employers in the workplace, versus the control of traditional street crimes or deviance committed by individuals. In apparel, the former is managed by federal and state regulatory agencies including the Department of Labor, Employment Standards Administration's Wage and Hour Division (WHD) and the Occupational Safety and Health Administration (OSHA). As previously discussed, both WHD and OSHA have investigative powers, can assess civil penalties (usually fines) for law violators, and can refer criminal violations for prosecution to the Department of Justice (DOJ) (Byrum et al., 2001). In practice however, criminal prosecutions against retailers, manufacturers, or contractors are extremely rare.

According to an auditing report by the U.S. General Accounting Office (1994), one of the many enforcement problems limiting the WHD is its resource problems. Since 1989, the WHD has 17 percent fewer enforcement resources for all of its regulatory objectives, 6 percent more employers to cover, and additional laws to enforce (ibid. 1994). Responsible for investigating violations of the minimum wage, overtime, child labor provisions of the Fair Labor Standards Act, and since 1993, the Family and Medical

Leave Act and the Employee Polygraph Protection Act, WHD faces the large task of enforcing wage laws nationwide with less than 1500 full-time employees (DOL 2003).

With a \$152.4 million budget and 945 inspectors in 2002, the Wage and Hour Division completed 1,000 civil cases, 336 of which involved monetary violations. Employees receiving back wages totaled 7,842, and collectively, garment workers received \$5,933,609, or approximately \$756.64 for each employee (DOL, WHD 2003). While the Wage and Hour 2002 Statistics Fact Sheet boasts of its ten year high enforcement record, in the apparel industry, where half of the shops are operating illegally, and wage violations are routine, only about one percent of workers receive back wages from their employers. Furthermore, despite the chronic violations that plague contracting shops in the apparel industry, no criminal prosecution referrals were listed by the Department of Labor's WHD.

Similar to the Wage and Hour Division's budget, OSHA's budget and resources are insufficient for the task at hand. In 2002, OSHA's federal budget was \$443 million, with 2,316 full-time employees, including 1, 123 inspectors to cover seven million job sites nationwide (OSHA 2003). While WHD and OSHA have recently been attempting to coordinate their enforcement activities in the garment industry, legal and administrative limitations, coupled with varying state and federal labor regulatory priorities have limited this effort (GAO 1995).

One such problem is that while garment industry experts identify the industry as a hotbed of dangerous workplaces, OSHA currently does not target garment shops for programmed health or safety inspections. As previously stated, presently, the Bureau of Labor Statistics (BLS) industry-level injury data used by OSHA for targeting inspections,

do not classify apparel as a high hazard industry. While this at first appears to contradict the available data on the industry, a closer examination reveals the discrepancy. Chiefly, OSHA does not include in its annual Data Initiative Survey workplaces in manufacturing with fewer than 40 employees, nor does it require employers with 10 or fewer employees to keep illness or injury records. With over half of all contracting shops operating illegally, and with generally small numbers of employees working at most garment shops (GAO 1995), it is not especially surprising that the majority of occupational injuries and illnesses in this industry are severely undercounted. Also, as a result of OSHA's classification schema, fewer potential referrals are shared with the Wage and Hour Division for joint enforcement.

By omitting such a large sample of possible workplace injury and illness cases in the apparel industry, agencies like OSHA can overstate successes, and mask the dark side of workplace hazards because injuries and illnesses to workers in smaller shops are never recorded. As Harry Brill (1992) states, the failure of public officials to perform their duties is a violation of their legal obligations. Most persons would readily recognize that a police officer who refrains from saving a life when s/he has the ability and mandate to do so, is violating the law. So too, is the federal or state regulator or agency that fails to act when the law requires action.

The above demonstrates one of the most significant differences between the roles of federal and state civil regulators and federal, state, and municipal law enforcement. The function of the police, regardless of jurisdiction is to serve primarily as the formal social control agent of the state. As such, law enforcement is entrusted with broad powers to stop, question, search, seize, detain, and exercise the state-sanctioned use of force in

the course of making a lawful arrest. The word enforce means “to compel observance or obedience to” (American Heritage Dictionary 1994). The State relies upon the coercive power of the police to garner obedience from individual citizens, with overwhelming emphasis upon its major Index I “street” crimes. As previously discussed, no such sweeping powers are granted to state regulatory agencies like OSHA and WHD. In fact, much of the legislation that regulates health, safety, and wage violations in the workplace emphasize cooperation, partnerships, alliances, and voluntary compliance with businesses, rather than the tough enforcement rhetoric that is the staple of federal, state, and local law enforcement initiatives.

Understanding the Linguistic Tools and Regulatory Practices that Obfuscate Corporate Law Violations and Allow State Agencies to Violate their Legal Obligations

If one examines the definition, to “regulate” means “to control or direct according to rule, principle, or law; to adjust to a specific requirement...or to adjust for accurate and proper functioning” (American Heritage 1994). As the definition implies, regulatory functions are designed to offer administrative rules or guidelines of permissible business practices.

Not unintentionally, the State employs a much softer touch with regard to how it attempts to control crime and malfeasance by corporations or businesses. Unlike the police function or mandate that compels obedience to the law, the function of federal and state regulators relies to a much greater degree on collaboration and assistance rather than compulsion.

In general, the present incarnation of regulation is to assist corporations in their

observance and compliance with the law by making policy recommendations, coordinating voluntary internal monitoring efforts, making very occasional inspections to ensure compliance, and for the most egregious cases, assessing fines and other civil penalties (Brill 1992). These differential mandates help explain how the State can often appear at once, militant, overzealous, and overreaching in its efforts to control street crime, while its efforts to control business and corporate crime are considerably less obtrusive.

Both the nature of apparel work, and the impunity with which many unlawful garment shops are permitted to operate, create a particularly unsafe and unhealthy workplace environment for employees. With respect to job site hazards, in a 1995 study by the General Accounting Office, the Agency found that typical sweatshops contained exposed electrical wiring, blocked aisles, unguarded machinery, poor lighting, and insufficient temperature and ventilation controls.

In terms of occupational injuries and illnesses, common reports in both legal and illegal apparel shops include severe hand, wrist, and elbow musculoskeletal disorders (including carpal tunnel syndrome, tendonitis, and hand-arm vibration syndrome); lower back musculoskeletal disorders; musculoskeletal disorders of the neck and shoulder (NIOSH 1997); and nerve disorders.

Despite the fact that NIOSH and other state health agencies have singled out apparel as one of the worst industries for ergonomic injuries (and have labeled ergonomic disorders as one of the greatest causes of employee injuries overall), OSHA still does not include a separate recording column for musculoskeletal disorders in its annual injury and illness survey. By lumping musculoskeletal disorders with other injuries, it becomes much more difficult to press for national, uniform ergonomic standards.

In attempting such a standard, the Clinton Administration fought to require employers to redesign workplaces if they were hazardous, and compensate people who became disabled. The Administration believed the standard, covering more than 6 million work sites at an estimated cost of \$4.5 billion for employers, was the biggest step the government could take to protect the greatest number of employees. Unfortunately for workers, in 2000, Congress and the Bush administration vetoed the standards (Goldstein and Cohen 2004).

In addition to musculoskeletal disorders, punctures, lacerations, and eye strain, are common to apparel workers (Bonacich and Appelbaum 2000). Moreover, there are a number of toxic harms that confront apparel workers, including elevated levels of formaldehyde, asbestos, cotton dust, powdered dye and other volatile organic compounds. These toxins, in combination with poor indoor ventilation, increase respiratory illnesses (OSHA 1991; OSHA 2003). According to OSHA (2003), cotton dust may contain a combination of several harmful substances if inhaled or ingested, including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, and other contaminants. Cotton dust is one of the largest illness threats to textile and apparel workers and a leading cause of lung disease.

To protect against dust inhalation, many apparel workers wear protective respirators on the job. In 1993, 26, 431 apparel workers wore respirators. At the time that OSHA proposed respirator standard revisions in 1993, the total annual cost for the 5,238 respirator using establishments, would have been \$355,540 or 0.06% of the total establishments' profits (OSHA 1993). After five years of information gathering and proposed rulemaking, OSHA amended the standard in 1998. Despite the characteristically glacial speed in which it took OSHA to adopt the new standard, the issue of respirator quality was yet to be decided.

In 2004 and 2005, 3M, the leading manufacturer of disposable masks since the 1970s, aggressively lobbied OSHA to grant their disposable masks the same safety rating as the more sophisticated respirators. Although several industrial hygienists from NIOSH and the Chair of the American National Standards Institutes (ANSI) testified that the disposable masks provided inadequate protection to workers, OSHA nevertheless granted the same safety rating to disposable masks as it did the respirators (Goldstein and Cohen 2004). Given the relative ease with which proper protective gear can limit lung disease among workers, OSHA's decision regarding this standard demonstrates yet another example of its dereliction of duty.

Related to this, OSHA is presently considering a proposed rule that would require employees (rather than employers) to pay for the costs of personal protective equipment. In the apparel industry, where this practice is already common, the passage of such a standard would continue to penalize low-wage laborers for their employment "choice," and discourage employees from taking the necessary job-related safety precautions.

As evidenced above, the structure and culture of OSHA, work to limit overall

safety and reform measures rather than to support it. One final example of this point: the Bureau of Labor Statistics (which collects survey data for OSHA), does not link the specific source of worker injury or illness in its annual survey with the respective occupational category, nor does it collect the number and types of potential carcinogens by industrial or occupational exposure. Because of this limitation in how illness data are collected, the number of carcinogens in the apparel industry and the number of toxic exposures in garment shops across the country remains unknown. Thus, while the BLS reports that the annual fatality rate in apparel remains at less than a fraction of one percent, the long-term fatality rate due to occupational disease may be far higher (Leigh et al 2004).

The Paradoxical Government: Who Will Police the Lawmakers?

By now it is apparent that overcoming harmful and exploitive labor conditions in apparel and other manufacturing industries necessitate a government that has the political will, resources, and expertise to effectively serve its workers. When state and federal policies contradict one another, or are not mutually supported, when labor inspector shortages limit enforcement and compliance efforts, and when information sharing between government agencies is stymied, workers are denied their legal right to safe and healthy workplaces. Equally as important, such occurrences signal a government in crisis.

But what if eliminating sweatshops wasn't necessarily a goal shared by all legislators? What if the very existence of sweatshops was defended as a stage in economic development that a country must go through to in order to develop and prosper? Or defended as better than the alternatives for poor people living in less

developed countries (or immigrants living in the U.S.)? Or defended as the only way in which corporations can meet consumer demands for low prices? Or defended as an unavoidable by-product of the apparel supply chain (Greenia 2001)?

At this point, we now know that each of these defenses are myths. Nevertheless, they are very powerful myths routinely offered by mainstream economists, retailers, manufacturers, their marketers, and lobbyists who maintain that the entire anti-sweatshop movement is both misguided and harmful to apparel business interests. From this vantage point, virtually all government regulatory interference creates artificially-imposed barriers to free trade, thereby limiting the company's (or more broadly the industry's) profitability. Consequently, retail and manufacturing power brokers rely upon the government to defend its business interests by opposing regulation and/or reformist interests.

Certainly relative to labor, capital is in a far more advantageous economic, political, and social position to have its interests supported, codified, and vigorously enforced. To this end, in order to sustain this position of privilege, the interests of capital must be promoted on multiple and mutually reinforcing structural, cultural, and individual levels. One of the most important ways to accomplish this is to influence the very laws, organizations, and practices that govern one's industry or business. In doing so however, capital promoting efforts must be carefully orchestrated and managed in a manner that obscures any appearance of corporate/state conflicts of interests, hypocrisy, militant labor opposition, exploitation, and/or harm. Equally as important, these efforts must be promoted and protected in a manner that does not give the appearance of evading corporate accountability.

In examining the history of U.S. labor laws (as we did in Chapter One), it is evident that the profoundly skewed distribution of wealth and power has carried over to the protections afforded to capital and labor, by its government. Within this system, it is perhaps unsurprising that embodied in the design of labor laws are the structural and cultural imbalances that promote its very violation. Indeed, in the case study that follows, we see one of the many examples of the supremacy of a capitalist political economy.

In 1994, when the Clinton Administration sought to increase the wages of garment workers in the Northern Mariana Islands capital, Saipan, <> 15 the island gov't [wanting the business], paid the law firm of Preston Gates Ellis and Rouvelas Meeds \$4 million to stymie the effort. Saipan government officials hired a legion of well-connected Washington lobbyists led by former Republican Whip Tom DeLay aide, Jack Abramoff, to "impeach" the anti-sweatshop campaign. Abramoff and his family contributed \$18,000 to DeLay's campaign coffers, and both DeLay and fellow Republican Dick Arme were treated to trips to the island, where they.....made impromptu visits to factories that were given advanced notice, and "spiffed up" for the occasion.all attempts to hold hearings on improving the wages and working conditions of the Saipan workers were subsequently blocked by the Republican Whip (Stein 1999).

The above example demonstrates the complexities and the seeming contradictions existing within a democratic government. Domestically, different segments of the same government often work toward achieving purportedly different goals. In the case of the Clinton Administration's efforts, the stated goal was to improve sweatshop conditions in the U.S. by increasing wages and working conditions. At the same time though, in other countries and regions removed from the intermittent gaze of U.S. regulatory agencies, the Clinton administration, through its passage of NAFTA, and support of other neo-liberal trade policies, has helped accelerate the deterioration of wages and working conditions in many areas of the developing world. By comparison, the DeLay, Arme, and Abramhoff agenda appear more motivated by individual gain, though such micro-level political

capitalizing may also have serious, long-term, and far reaching consequences for workers.

This chapter concludes the qualitative portion of the dissertation's historical-comparative analysis. Briefly recapping chapters one through four, I began chapter one with an overview of the birth, decline, and resurrection of the American sweatshop. In this chapter, two major qualitative research questions were posed. Qualitative research question one asked: Did size of and participation in union activity influence better working conditions for apparel workers? Undoubtedly from chapter one, the reader has learned that apparel labor unions were instrumental in combating the conditions of the early American sweatshop, and that the larger their size and strength, the more influential they were in improving domestic apparel working conditions.

Qualitative research question two, also in Chapter One, hypothesized whether corporate globalization had a negative impact on working conditions for domestic and global apparel workers? Once again, the answer was affirmative. Chapter One chronicled the burgeoning fusion of post-WWII U.S. imperialism and global capitalism in the apparel and textile industries. From this historical analysis, the reader was informed of how these post-War changes began to loosen the restrictions on low-wage imports entering the U.S., and how the textile and apparel industries responded by shifting domestic production to low-wage, non-union locales abroad. In the last part of chapter one, the reader gained a greater appreciation of how deregulation, unprecedented trade liberalization, and the dismantling of the American Welfare State, all hastened dramatic decreases in domestic apparel employment, real wages, and working conditions.

In Chapter Two, the third qualitative research question queried: Does the apparel

industry and the State engage in the hyper-exploitation of gender to further each of their respective interests? On both counts, chapter two demonstrated that the apparel industry and the State has in fact exploited gender inequality for their own gain. As evidence of this, the reader was introduced to the caste-like system of the apparel commodity chain, and was shown how the organizational and cultural environment of the industry utilized particular categories of women and girls to facilitate a more profitable, compliant, and expendable surplus labor pool. With respect to the State-component of the equation, chapter two tied together the effects that acute gender oppression has had upon the degree of exploitation of apparel workers.

Specifically, Chapter Two tied together how historically, the State allowance of certain harmful labor practices (i.e. homework, export processing zones, pregnancy-based firings, etc.) have all used gender as a tool to constrain women's economic mobility and employment opportunities, negate their labor rights, and punish women and girl workers who attempt to combat or change their exploitive labor conditions.

In Chapter Three, I posed the fourth and final qualitative research question of the dissertation: Did State regulation impact occupational injuries and illnesses in the apparel industry? As with the three preceding hypotheses, the answer is yes, although with less specific data relevant to the apparel industry. In chapter three, I discussed how overall workplace injuries, illnesses, and fatalities have decreased in virtually all labor industries (including apparel) since the passage of OSHA. Although State regulation has fallen far short of the OSH Act's original goals, state intervention in the workplace has translated into fewer toxic exposures and occupational hazards for domestic apparel workers.

In Chapter Four, I extended the discussion of the political economy of worker

safety and health legislation from chapter three to include the important topic of regulatory sabotage. Namely, I discussed the chronic problem of understaffing and underfunding the OSHA and WHD budgets (see results and discussion, Chapter Six, for further elaboration on this issue). Also, I demonstrated how OSHA's inspection, enforcement, and penalty assessment policies largely privileged the conciliatory approach of teamwork, partnerships, and negotiation in attempting to garner corporate compliance. Such strategies demonstrated the enormous power that employers have in pursuing profit without having to give serious consideration to their employees' health and safety. Finally, I discussed how capital's influence on law creation and law enforcement has created enormous conflicts of interest between capital and the State, and how ultimately this translates into unequal treatment for workers before the law.

Let us now turn our attention to the remaining portion of this study which examines quantitative summary statistics from the Department of Labor and the Apparel and Textiles Industry, to uncover the safety, health, and remuneration conditions of apparel workers.

Chapter Five

Research Methods

In the research methods chapter, I attempt to bridge the qualitative, historical component of the doctoral dissertation with the quantitative comparative analysis component, which uses contemporary government and industry data to examine the employment conditions and issues facing apparel workers today. Using the principle of triangulation, (which applies different data collection techniques to examine the same variable(s) (Neuman 1994), I employ quantitative methods to augment and support the qualitative portion of this study.

The quantitative data involves secondary data analysis of several governmental data sets: (1) Department of Labor's Bureau of Labor Statistics (OSHA Log) data and Occupational Employment Statistics, (2) the Employment Standards Administration's Wage and Hour Division data, and (3) Economagic's Apparel and other textile products industry (SIC) data. These data are employed to provide a richer understanding of what is known and not known about the current employment conditions of apparel workers, and the political and economic realities that effect this industry and its workers.

Before we turn our attention to the quantitative component of this dissertation, I provide the reader with a methodological map that outlines my purpose and rationale for selecting the historical-comparative analysis, and makes clear the connection between past and present conditions of apparel workers. Below is a discussion of the qualitative research methods that I employed for the first half of this study. Recalling the four

research questions posed in chapters one through chapter three, I now endeavor to define the methodology guiding these questions, as well my reasoning in selecting this particular type of method.

Defining H-C Qualitative Methodology and Rationale for Selection

An historical-comparative (H-C) research approach is a type of historiography, a method of doing historical research, or of gathering and analyzing historical evidence (Neumann 1994). According to Mariampolki and Hughes (1978:104-105), historical-comparative research “seeks to explain and understand the past in terms of sociological models and theories.” It may be used when asking research questions about macro-level changes, or it may be employed to uncover common patterns that reoccur in different historical moments or geographical spaces (Babbie 1995). When applied appropriately, H-C provides researchers a richer understanding of the social processes that operate over a length of time. Equally as important, H-C helps raise new questions and stimulates theory building (Neuman 1994).

Given H-C’s emphasis on broad structural and cultural processes, many of its earliest applications incorporated a mixture of sociology, history, political science and economic theory. Recognizing the applicability of this method in explaining the evolving interplay between industry and State, each aforementioned discipline helped to inform my analysis of the preceding chapters. More specifically, in chapters one through four, I used the H-C method to explain how and why sweatshops were created, driven largely underground, and then resurrected by State and apparel industry culture and practices.

Limitations of Historical-Comparative Method

The limitations of the secondary historical evidence include the potential for the researcher to “receive” inaccurate historical accounts (Neuman 1994), including accounts that have been skewed by the primary researcher’s social milieu or individual biases. It is also possible that the researcher employing the H-C method may omit findings that have been overlooked or ignored by previous researchers collecting primary data (ibid. 1994). One way of lessening these potential inaccuracies is to consult as many multidisciplinary texts, readers, and narratives of the topic under study. By consciously striving for a strong balance of breadth and depth, the likelihood of obtaining a more accurate and holistic accounting of the researcher’s subject matter should increase. Additionally, mixed methodologies that combine first-account field research and historical-comparative design would likely lessen the extent of the limitations described above. Despite the potential of these remedies however, one inherent limitation remains in that, as a non-experimental method, the qualitative hypotheses cannot be falsified—as required of all positivistic, scientific research designs.

Qualitative Research Questions

The following four research questions address the major foci of the first half of this dissertation, using a qualitative historical comparative approach.

- 1) Did/does size of and participation in union activity influence better working conditions for apparel workers?
- 2) Did/does corporate globalization have a negative impact on working conditions for domestic and global apparel workers?

- 3) Did/does the apparel industry and the State engage in the hyper-exploitation of gender to further each of their interests, respectively?
- 4) Did State regulation impact occupational injuries and illnesses in the apparel industry?

Operationalizing Key Variables in H-C Research Questions

The discussion below describes the variables analyzed to address each research question.

Qualitative Research Question One. *Apparel unions* refer to the labor organizations that represent the broad category of garment workers (i.e. International Ladies' Garment Workers' Union, Amalgamated Clothing and Textile Workers of America, UNITE HERE, etc.). *Participation* refers to any member activities in support of the union (i.e. strikes, walkouts, stoppages). *Working conditions* refer primarily to conditions of health, safety, and compensation. *Apparel workers* refer to the group of employees who cut and sew fabrics and related materials into clothing (Classified under SIC: 23 apparel and other textile products). See recent SIC change under "apparel industry" definition.

Qualitative Research Question Two. *Globalization* is a term that is used to define "the historic convergence of diverse national economies into a single, capitalist world economy dominated largely by transnational corporations" (Wonders and Danner 2002:166). *Global apparel workers* refer to any apparel workers not employed in the continental U.S.

Qualitative Research Question Three. *The State* broadly refers to the legislative, executive, and judicial branches of government, as well as the specific "institutions of

political governance” (Michalowski 1993:175) that create and enforce the public policies of a nation.

Qualitative Research Question Four. *Government regulation* refers to state and federal legislation designed to bolster the rights of workers. Legislation including the National Labor Relations Act, the Fair Labor Standards Act, and the Occupational Safety and Health Act are all examples of twentieth century legislative reforms that have attempted to improve workplace conditions for U.S. employees, of which apparel workers remain a part.

According to the U.S. Department of Labor’s Bureau of Labor Statistics (2003: 9), *occupational injuries* refers to a physical harm “caused by a work related event or an instantaneous exposure in the work environment.” Injury examples include: cuts, sprains, lacerations, punctures, burns, fractures, repetitive motion injuries, etc. In contrast, *occupational illnesses* refer to “any abnormal condition or disorder (other than one resulting from an occupational injury), caused by exposure to a factor associated with employment” (ibid. 2001:9). Occupational illness examples include: skin diseases or disorders caused by work exposure to chemicals, plants or other substances; respiratory conditions associated with breathing hazardous biological agents, chemicals, dust, gases, vapors, or fumes at work; poisoning evidenced by abnormal concentrations of toxic substances in blood, other tissues, bodily fluids, etc., that are caused by the ingestion or absorption of toxic substances into the body; and other diseases brought upon by air or blood-borne contaminants in the work environment.

The *apparel industry* refers to the Standard Industrial Classification (SIC) Major Group 23: apparel and other finished products made from fabrics and similar materials.

The major industry group known as “the cutting and needle trades,” consists of establishments producing clothing and fabricating finished products by cutting and sewing purchased woven or knit textile fabrics and related materials (OSHA 2003). Note: Following 2002, the BLS adopted the new intra-continental governmental standard to code all industries in the U.S., Canada, and Mexico. The new system, called The North American Industrial Classification System (NAICS) replaced the earlier Standard Industrial Classification (SIC) codes which were used by the Department of Commerce’s Bureau of the Census until 2001 and the Department of Labor’s Bureau of Labor Statistics until 2002. Apparel manufacturing is now classified under the NAICS code 315.

Now that I have operationalized the key variables in the qualitative research component of this study, and have provided the rationale for why the historical-comparative approach was selected, let us continue to the next stage of this chapter which examines the quantitative research method employed in this dissertation.

Quantitative Data Sources and Rationale for Selection

As stated in the previous section, in order to provide the comparison component to this study’s H-C analysis, I analyze secondary data from the Department of Labor, Employment Standards Administration’s Wage and Hour Division (WHD), Bureau of Labor Statistics (BLS), the Occupational Safety and Health Administration (OSHA), as well as from Economagic, for the years 1993-2002.

The time frame, 1993-2002, was selected in order to analyze the most recent ten year apparel employment condition trends with directly comparable apparel industry

data. Because the government's industrial classification system completed its change from SIC to NAICS following 2002, anything after 2002 would be similarly, albeit not directly comparable to previous data. Moreover, selecting this time frame encapsulates nearly the first decade after the passage of NAFTA. In furtherance of qualitative research question two (*did/does corporate globalization have a negative impact on working conditions for domestic and global apparel workers*): the quantitative data provide contemporary indicators of globalization's effects on apparel unionization declines (addressed in qualitative research question one), overall industry job loss, and on the more complex picture of apparel worker safety and health.

In addition to governmental data on the working conditions of apparel workers, I also employ budget, investigator, and inspection data on the two primary state organizations/divisions responsible for overseeing these workers: OSHA and WHD. I chose these data to identify the resources that each agency possesses to ensure safe, healthy, and fair employment conditions for apparel workers, as well as determine the number of apparel workers being assisted and inspections being performed by OSHA and WHD.

Finally, I include apparel industry data from the economic time series website Economatic to ascertain the productivity of the apparel industry, its profits, and the level of worker exploitation. These data provide a contemporary portrait of both the economic conditions of apparel employees and their industry. As such, in advancement of qualitative research question three (*does the apparel industry and the State engage in the hyper-exploitation of gender to further each of their interests, respectively*), these data offer evidence of the continued labor exploitation of young immigrant women and girls

in the apparel industry.

Quantitative Research Design and Rationale for Selection of Sources

Two major sources of survey data were selected for the quantitative portion of this study. The first and chief secondary data source used in the analysis was the Bureau of Labor Statistics's *Occupational Injuries and Illnesses: Counts Rates and Characteristics* (OIICRC), compiled from the Annual Survey of Occupational Injuries and Illnesses (ASOII). ASOII is the only routinely collected national data concerning occupational injuries and illnesses among U.S. workers (DOL 2002). For over 30 years, the BLS has compiled ASOII survey data as a part of its mandate articulated in the 1970 OSH Act. ASOII employs a stratified random probability sample of approximately 250,000 private sector establishments and provides estimates of workplace injuries and illnesses on the basis of information employers provide (ibid. 2002).

In providing the rationale for the selection of ASOII, it must be noted that presently, no *comprehensive* (i.e. multiple data source) national surveillance system exists for collecting occupational injury and illness data. Instead, the measurement of workplace injuries and illnesses in America relies upon a patchwork of data sources including the Bureau of Labor Statistics Annual Survey on Occupational Injuries and Illnesses, the Occupational Data Initiative Survey, workers compensation records, and physicians records (Azaroff et al. 2002). Thus, for apparel researchers seeking nationally collected annual occupational injury and illness data, ASOII presently remains the only option.

Returning to the topic of quantitative data sources employed in the dissertation, the second source of secondary survey data used was the BLS's annual survey *Occupational Employment Statistics (OES)*. The OES includes mean hourly, median hourly, and mean annual earnings by detailed occupation, including occupations in the Apparel Industry. Collected on a national level each year, the OES are collected by State employment or labor agencies through distribution of questionnaires and electronic means to measure employment earnings.

I selected the OES program for measuring apparel earning statistics because it includes more types of earning data relative to the National Compensation Survey (NCS). The OES also utilizes the Standard Occupational Classification system (SOC), which captures the more precise measure of sewing machine operators (versus all apparel worker) wages. Most significantly, the OES program includes establishments with 5 or more workers, while up until 1999, the NCS program only included establishments with 50 or more workers (ibid. 2004).

A few limitations of the OES program should be noted. First because the OES data are collected by state employment agencies, the methodology employed by each state will vary, making data from some states more or less valid. (Similar criticisms have been made about data sources like the FBI's UCR for example; still, there are enough similarities between state collection methods to make the data comparable). A second, limitation is that the OES (like the NCS) excludes homeworkers. Finally, the OES have less detailed wage data, differentiating by employee, employer, and establishment characteristics relative to the NCS.

The remaining data sources from the Office of Management and Budget's (OMB) Annual Budget of the U.S. Government data, WHD and OSHA apparel inspection data, and Apparel and Textile Industry profit and production data are all listed under their respective graphs in the following Results and Discussion chapter.

Let us now turn to the quantitative research questions informing the comparative analysis component of this study. After each question or subgroup of questions, I explain why each is posed, and how each relates to, and provides further elaboration of the qualitative research questions addressed in the first half of this study.

Quantitative Research Questions for Secondary Data Analysis

Question 1). *Is there a correlation between the Employment Standards Administration's annual budget and number of Wage and Hour Division investigators employed, from 1993-2002?*

Question 2). *Is there a correlation between the Department of Labor's Employment Standards Administrations, Wage and Hour Division's annual budget and the number of Wage and Hour Division cases completed in the apparel industry, from 1993-2002?*

Question 3). *Is there a correlation between the number of Wage and Hour Division investigators and the number of cases that they completed, from 1993-2002?*

Research questions one and two address the U.S. Office of Management and Budget (OMB) allowance of the state organization entrusted with ensuring that the

nation's labor laws and standards are enforced, and workers' labor rights are protected.

Question one addresses whether there is a relationship between the financial resources afforded ESA, and its ability to sufficiently staff its Wage and Hour Division.

Independent of staffing issues, question two assesses whether the ESA budget specifically impacts the number of completed cases in the apparel industry. Question three seeks to uncover whether increases or decreases in the number of WHD investigators impacts the number of apparel worker compensation cases that the Division completes.

All three questions are designed to examine whether sufficient financial resources are available for enforcing the many labor laws overseen by the Wage and Hour Division. The budget issue is significant for a couple of reasons. Firstly, the number of Acts that the WHD has been entrusted to enforce has increased during the 10 year period under study (1993-2002). Secondly, according to Marvin Levine's (2003) important study on *The Peril's of Child Labor in the U.S.*, the United States has more of its children employed in the workforce than any other developed industrialized country in the world. Related to this, Levine finds that since 1981, there has been a relaxation in the enforcement of federal child labor law provisions in America, including standards in employment environment, safety, hour, and wage standards. Thus, while these questions do not address labor conditions generally, or children's labor conditions in particular, they do address whether the WHD budget, the number of investigators, and the number completed cases in the apparel industry have kept pace with the rise in WHD's enforcement responsibilities.

Question 4). *Is there a correlation between the injury and illness rate of apparel workers and the number of Occupational Safety and Health Administration (OSHA) apparel industry inspections, from 1993-2002?*

Question four addresses whether apparel worker safety and health is impacted by OSHA enforcement efforts, and whether state regulation impacted apparel industry injuries and illnesses.

Question 5). *Is there a correlation between the OSHA budget and the number of Occupational Safety and Health Administration (OSHA) inspections in the apparel industry, from 1993-2002?*

As with quantitative research questions one and two, the OSHA budget is a measure of how the organization is prioritized by the State, and how its fiscal resources impact the Administration's ability to ensure the safety and health of all of its workers. Recalling qualitative research question four, it was postulated that financial resources would be related to the State's ability to enforce safety and health laws, and that apparel industry health and safety inspections would be impacted to the degree that enforcement is present or absent.

Question 6). *Did the number of domestic apparel workers employed decline from 1993-2002?*

The purpose of question six a is to demonstrate whether dramatic increases in corporate globalization alongside dramatic decreases in apparel unionization has had an impact on the size of the domestic apparel workforce.

Question 7). *Did Apparel industry profits increase from 1993-2002?*

Question seven provides a measure of industry data to demonstrate the relative strength or weakness of the Apparel industry during the period under study. This question assesses in part whether the Apparel Industry benefited (or not) from the passage of NAFTA, and also provides an evaluation (independent of employee production) of how the apparel industry fared during this period.

Question 8). *Is there a correlation between Apparel Industry profits and the Apparel Production Index from 1993-2002?*

Question eight addresses whether Apparel Industry profits are impacted by apparel industry output (i.e. level of industrial production). The question examines whether a correlation exists between the annual capital return in the Apparel Industry and the level of garment production. This question also captures the degree to which industry profits have increased or decreased relative to the production output of apparel workers. Finally, the apparel production index provides another measure of exploitation which is measured in quantitative research question eight. If as hypothesized, apparel industry profits do not rise or fall in proportion to the production output, then industry compensation is being awarded by means other than the volume of garments being produced by workers.

Question 9). *Did the level of exploitation of apparel workers increase from 1993-2002?*

As the final quantitative measure in the dissertation, question eight seeks to compare apparel industry profits with the average weekly wages that are paid to apparel workers.

Exploitation is measured as the average weekly worker wage divided by weekly apparel industry profits, multiplied by 100,000. The results of this equation provide a general measure of exploitation by converting apparel worker wages into a proportion of apparel industry profits. The quantitative measure of exploitation builds upon qualitative question three which asked in part whether the apparel industry engaged in the hyper exploitation of gender to further its (profit) interests.

Operationalizing Key Variables in Quantitative Research Questions

In this section, definitions are provided to clarify key terms or concepts used in the quantitative research questions. Terms or concepts used in the quantitative research questions that have already been defined here, or elsewhere in the text, are omitted to avoid redundancy. Also, commonly understood terms (i.e. average weekly wages, average annual employment, etc.) are not operationalized here. For ease of presentation and clarity, terms and concepts are presented relative to the research question to which each relates.

Research Question One. Completed cases refer to the number of closed cases that the Wage and Hour Division (WHD) completed nationwide in the apparel industry, from 1993-2002. Data on the total number of investigations that were still on-going at the end of each calendar year were not provided to me by the WHD.

Research Question Two. Wage and Hour Division Investigator refers to inspectors that enforce and garner compliance with the minimum wage, overtime, child labor, and other employment standards laws and regulations (Budget of the U.S. Government 2002).

Research Question Four. OSHA Inspections refer to the number of investigations conducted by OSHA's Compliance Safety and Health Officers during the given year. The data often, but do not necessarily represent the number in which all activity associated with the inspection ceased (OSHA 2005). OSHA inspections are broken down by the total number of federal, state, and apparel industry inspections in chapter six.

Occupational Injury and Illness Incidence Rate refers to the number of injuries and/or illnesses per 100 full-time workers and were calculated as: $(N/EH) \times 200,000$ where: N = number of injuries and/or illnesses; EH = total hours worked by all employees during the calendar year; and 200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year). For a definitional review of occupational injuries and illnesses, see qualitative methods section.

Research Question Eight. Apparel Industry Production Index refers to the score that result from measuring the relative garment output amount produced by apparel workers, during the years 1993-2002. The index includes ten years of data, and uses the average year in the data set (1997) to create a standardization points. Since the average index score during this time period was 100, this is the standardization point that is used in the data.

Research Question Nine. Rate of Exploitation of Apparel Workers

For the purposes of the present study (as stated above), the rate of exploitation is defined as the average weekly worker wage divided by weekly apparel industry profits, multiplied by 100,000. Although it is customary to multiply exploitation measures by 100, doing so would not permit the reader to visually identify the level of exploitation displayed in this graph (see results section for research question eight). The results

provide a general indication of exploitation by converting wages into a proportion of industry profit. The higher the rate of exploitation, the more profit the apparel industry generates relative to the average salaries paid to apparel workers.

Reliability Concerns: Underreporting and Underrecording as Limitations of Safety and Health Data in the Apparel Industry

The utility of ASOII specifically, and governmental secondary survey data in general, is that it provides an opportunity for the researcher with in-depth knowledge of a given industry to evaluate and critique the methodology employed by both the primary and secondary data collectors (i.e. employers and OSHA/BLS). Related to this is the ability to assess what we know versus what we do not know and why.

In the apparel industry for example, we know that establishment size, nature of industry, and demographics of employees (and employers) all impact the degree to which occupational injuries and illnesses are officially counted or not counted. Regarding establishment size, as stated in chapter two, OSHA does not require including in its annual Data Initiative Survey workplaces with fewer than 40 employees, and does not require employers with fewer than 10 employees to keep injury or illness records. This is methodologically problematic considering that the Department of Commerce's Economic Census reported in 2002 that 94% (n=13,038) of all apparel establishments are classified as small, very small, or micro. Five percent (n=670) were classified as medium, and less than one percent (n=68) were classified as large.

Keeping in mind that over half of apparel shops are believed to be operating illegally, with an untold number of immigrant and undocumented workers, it becomes

readily apparent that the BLS is missing an extraordinarily large sample of small workplaces (and hence workers) from its annual injury and illness survey. Thus, when examining the occupational injury and illness rates of apparel workers it is important to recall that government data exclude large segments of apparel workers because many work in small establishments excluded from the BLS survey. By logical extension, BLS's annual survey only captures a portion of all injuries and illnesses in the apparel industry.

In terms of the nature of the industry, since smaller establishments have the lowest capital investment, lowest level of technology, are the least stable (i.e. most transient), experience the most downward pressure, and are the most likely to be operating illegally (Sabel, O'Rourke, and Fung 2000), the very large number of small apparel establishments is of serious concern from the standpoint of workplace health and safety.

With respect to employee-employer demographics, both are significant to occupational injury and illness reporting because vulnerable populations are less likely to inform their employers when they are ill or injured in the workplace. According to Azaroff (2004), this occurs for many reasons including: fear of being considered careless, being labeled a complainer, experiencing report-related retaliation, harassment, or firing—and for the majority of undocumented workers—the fear of being deported.

Even under the most favorable reporting conditions, the BLS survey excludes injury and illness cases that do not result in a visit to a physician or hospital, loss of consciousness, restriction of work or motion, or job transfer. With this in mind, it is important to note that there are many criteria which must be met before one's work

related illness or injury is counted in BLS's ASOII. According to Azaroff et al. (2002: pg. #), these eight steps include:

1. Private employer pays employee according to legal processes
2. Event occurs on shop floor, and worker perceives that she is injured or sick
3. Worker perceives injury or illness as work-related
4. Worker perceives desirability of reporting injuries or illnesses to supervisor
5. Supervisor perceives that the worker has a legitimate worker-related health problem
6. Supervisor allows worker to take a full day away from work, or provides restricted work, or worker perceives means to pay for medical treatment, obtains medical treatment, and informs the supervisor
7. Supervisor logs the injury according to OSHA record-keeping requirements
8. Log is sampled by BLS survey

I will discuss the significance of these barriers in the next chapter.

Non-Sampling Limitations

In addition to sampling and other limitations in the BLS's Occupational Injuries and Illnesses Survey, non-sampling errors also exist. These include the inability to obtain information about all cases in the sample, mistakes in recording the data, and definitional difficulties. To be sure, such recording errors exist in all forms of data. There are, however, specific errors in the recording of health data that can affect the validity of these data (Leigh, Markovitz, Fahs, and Landigren 2000). One of the biggest non-sampling errors of concern is the long-term latent illnesses and diseases caused by known or unknown toxic exposures. If the worker does not know that s/he has been exposed to a

harmful substance, or does not recognize or correlate an illness with a past exposure, the information will go unreported and the harm undercounted. For example, as previously discussed in chapter two, because the Bureau of Labor Statistics does not link the specific source of worker injury or illness in its annual survey with the respective occupational category, the number and types of potentially carcinogenic exposures in garment shops across the country will continue to remain undercounted, and may help justify less stringent oversight of this industry than what is needed to effectively safeguard apparel workers' health and safety.

As stated above, the chief concerns using the ASOII to measure occupational injuries and illnesses in the apparel industry are undoubtedly underreporting and underrecording. These problems amount to missing data which fall under the umbrella of reliability limitations. For researchers using secondary data analysis, lost or uncollected data artificially lowers the number and rate of injury and illness counts. While such problems may occur consistently throughout these data, or hopefully occur infrequently enough to have minimal impact, the possibility of lost or uncollected data could lead the reader to unwittingly misinterpret data or draw unwarranted assumptions or conclusions, particularly if there is a pattern to the omission. (See discussion section in following chapter).

Measurement Validity, Occupational Employment Statistics

There is at least one limitation of the Occupational Employment Statistics that needs to be revealed: the OES excludes private household workers. Most types of “homework” are illegal in the U.S. The DOL does not, however, estimate the extent of

this type of illegal work form. However, as the historical record shows, homeworkers have always been the most exploited and poorly paid of all apparel workers. Again, given the illegal nature of homework, and the fact that these workers are almost always undocumented, the reader should be aware that the mean and median weekly wages in this survey are artificially inflated because of the exclusion of homeworkers in the apparel industry.

Industry Data Limitations

While the majority of the quantitative data in this dissertation rely upon government sources, industry data are used to measure apparel industry profits and the apparel production index. Such data are significant in terms of understanding the entire picture related to the employment conditions of apparel workers and the organizational health, practices, etc. of the industry. As a largely private industry, apparel associations are generally not required to share business related information with the general public. Not surprisingly, apparel industry trend data are not easily found on the internet, and data that are available generally exclude important information like data source, methods for collection, contact information, etc.

For example, when retrieving apparel industry data from the website, economagic.com, (which houses thousands of government and industry data files), I was barred from viewing any additional information save the data file itself. When I attempted to view key information, such as data source, I was informed that I would need to become a paid subscriber to retrieve such information. Likewise after searching the various apparel industry association sites, I was barred from accessing their statistics pages without first becoming a paid subscriber. Such subscriptions routinely cost thousands of dollars, and for practical purposes, are not a viable option for most researchers. In short, apparel industry data are provided in a very limited format, and often exclude how the data were collected and measured.

In this chapter, I discussed the appropriateness of using existing statistics, specifically secondary data, in analyzing occupational injuries, illnesses, and compensation in the apparel industry. Survey sources included the Bureau of Labor

Statistics Annual Survey on Occupational Injuries and Illnesses and the Occupational Employment Statistics Survey. Other research from OSHA and WHD databases were employed to provide personnel and enforcement statistics on the apparel industry, as was apparel industry data to provide information on industry profits and production.

Quantitative research questions were presented to articulate the hypotheses of the second half of this study, and definitions were provided to operationalize key variables in the study. Finally, data limitations were presented to inform the reader of the study's confines.

The next chapter examines the results of apparel industry injury, illness, and compensation data from the years 1993-2002, and discusses the significance and implications of these results.

Chapter Six

Results and Discussion

This chapter provides apparel industry summary data and correlation statistics on occupational injuries and illnesses, employee and industry characteristics, and OSHA and WHD regulatory statistics. In this chapter, I present an introductory summary of the quantitative research findings and the results of each quantitative hypothesis posed in the previous methods chapter. The results for each question are presented in graph format. After the presentation of each graph, I describe the correlation statistics or apparel industry summary data, and provide an interpretive analysis of each finding. At the conclusion of this chapter, I bridge the qualitative H-C portion of this dissertation with the quantitative secondary data analysis presented in this chapter, to demonstrate where apparel workers stand today in terms of compensation, health, and safety.

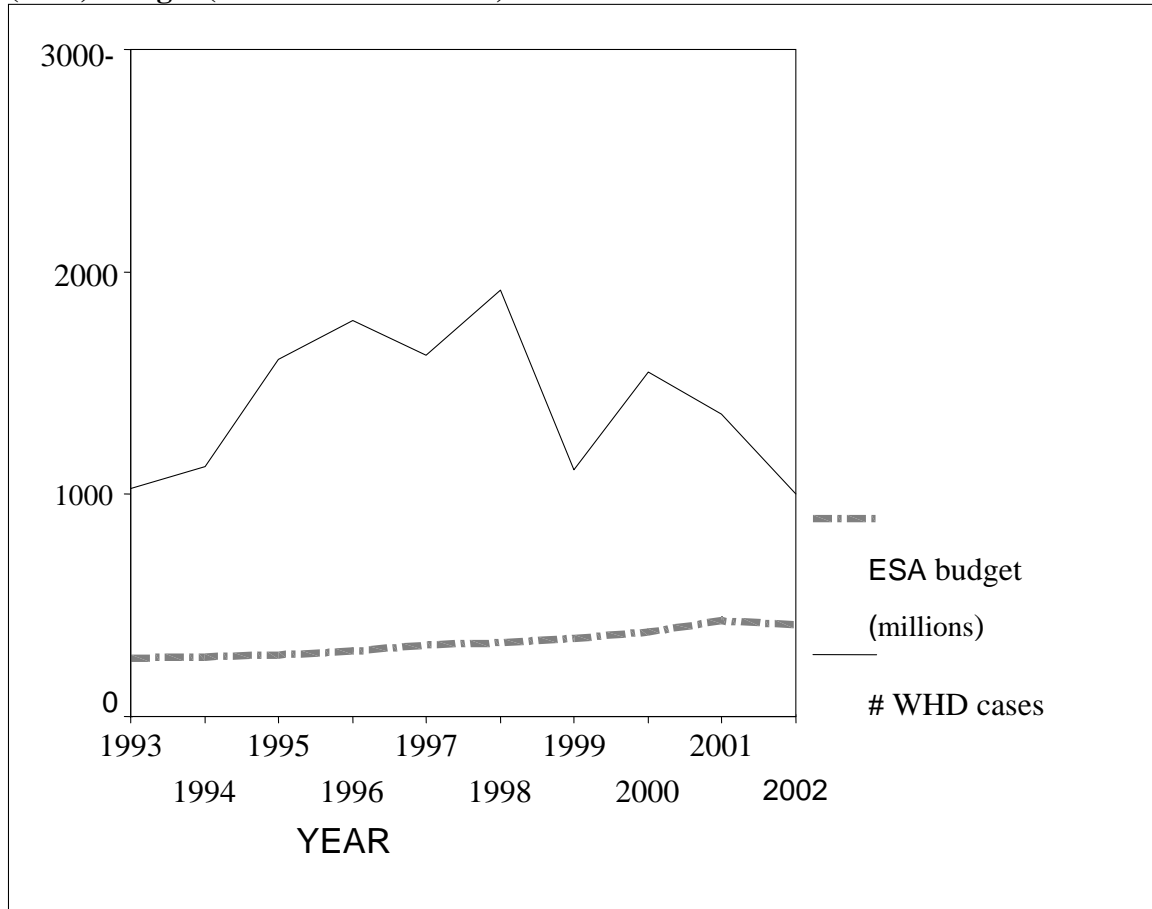
Examining the years 1993-2002, Bureau of Labor Statistics data indicate that the Employment Standards Administration, Wage and Hour Division, and Occupational Safety and Health budgets all generally increased, though in terms of real dollars this amounted to a stable (rather than an expanding) appropriations budget (Weil 2003). Also, according to the BLS's ASOII, as with many other manufacturing industries, the rate and number of reported occupational injuries and illnesses in the apparel industry steadily decreased despite the fact that fewer apparel industry safety and health inspections were being conducted by OSHA. Less surprising were the continuing annual

plunges in the number of U.S. apparel workers and the concomitant hemorrhaging in the number of unionized employees. With fewer U.S. apparel workers, a loss in domestic apparel production output also occurred from 1993-2002. Finally, apparel industry data demonstrate that from 1993-2002, overall profits decreased, but not as rapidly as the apparel production output. Most significantly, apparel worker exploitation increased, as the gap between industry profits and workers' wages widened.

Let us now turn our attention to the results where I first restate each quantitative hypothesis from the previous chapter, show the graph that illustrates these results with a corresponding description, and then discuss each of the findings in greater detail. (Note: in order for each graph, description, and footnote to be shown on the same page, each graph begins with a new page).

Quantitative Question One asks: Is there a correlation between the Employment Standards Administration's (ESA) annual budget and the number of Wage and Hour Division (WHD) investigators employed, from 1993-2002? Let us see the graph below to answer this question.

Graph 1: Correlation Statistics Examining Employment Standards Administration (ESA) Budget (in millions of dollars) and number of WHD cases <s>15



Correlation (R) = -0.106; Sign. = 0.770

The above graph illustrates that the Employment Standards Administration (ESA) budget and the number of Wage and Hour Division (WHD) cases are not significantly correlated. That is, during the period extending from 1993 to 2002, the ESA budget did not significantly impact the number of WHD cases.

From 1993-2002, for all years save one, the ESA Gross Budget (and the Enforcement of Wage and Hour Standards Budget) increased. During this time, the overall ESA budget grew 64% from \$263 million in 1993 to \$411 million in 2002. Despite this upward trend however, consistent upward trends were not found in the

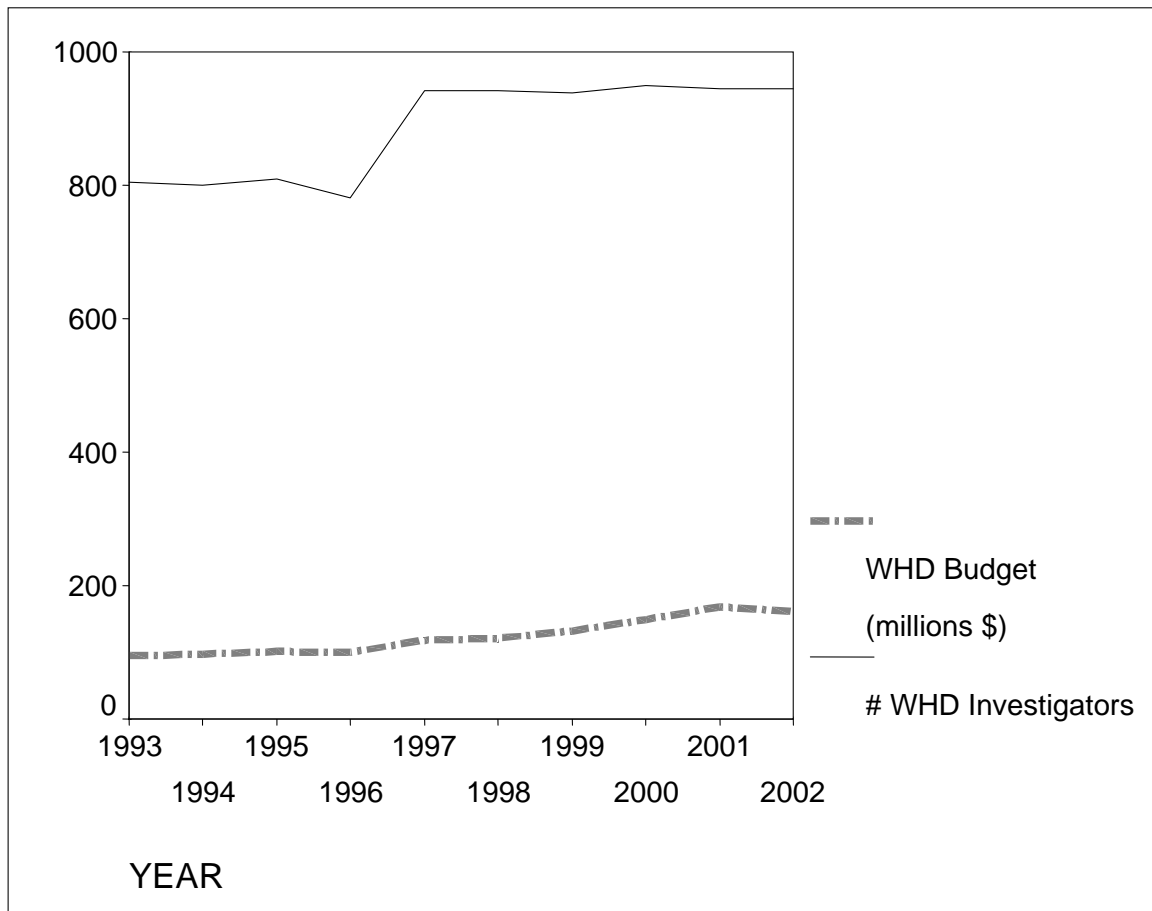
number of cases completed by WHD investigators. In fact, the number of cases from 1993 to 2002 varied considerably from a high of over 1900 cases in 1998 to a low of 1000 cases in 2002. As evidenced by the above graph, WHD cases generally increased until 1998, after which a sharp decline occurred between 1998 and 1999, and a smaller decline occurred following 2000.

One possible explanation for these findings is what I have termed the “the El Monte” effect. Between 1995 and 1998, the apparel industry was a major focus of regulatory enforcement efforts due to the sensational El Monte slaveshop case that placed the industry under an intense media, political, and activist spotlight. It is possible that as the spotlight cooled and a modest amount of industry changes were made by some key apparel industry players, the case numbers dropped to the levels seen at the beginning of the 1990’s (that is, prior to the renewed attention paid to sweatshops found in the mid-1990s).

Also of possible import is the fact that the Employment Standards Administration (and the Wage and Hour Division) have many industries to inspect and several Acts to enforce. Budgetary allowances alone, while critical for staffing personnel, do not necessarily determine where the enforcement efforts will be. Therefore, future research on the ESA, WHD, and the apparel industry should examine more closely what variables impact how enforcement efforts will be directed. Also of interest for future study, is what variables most significantly impact the recovery and amount of back wages for apparel workers.

Quantitative Question Two asks: Is there a correlation between the Department of Labor's Employment Standards Administrations, Wage and Hour Division's annual budget and the number of Wage and Hour cases completed in the apparel industry, from 1993-2002? Let us now turn to graph two which shows the relationship between the WHD budget and the number of WHD investigators.

Graph 2: WHD Budget and WHD Investigators <s>16



Correlation (R) = .825; Sign. =0.003

The above graph illustrates that the budget of Wage and Hour Division (WHD) and the number of Wage and Hour Division (WHD) investigators are significantly

correlated. That is, during the period extending from 1993 to 2002, as the WHD budget increased, so too did the number of WHD investigators.

From 1993-2002, the WHD Enforcement Budget grew at approximately the same rate as the overall ESA budget. During this time, the WHD Enforcement Budget increased 59% from \$95 million in 1993 to \$161 million in 2002. From 1993-1996, the number of WHD investigators was generally constant. Then from 1996-1998, the graph demonstrates a fairly modest increase in the number of WHD investigators, followed by another leveling off period for the remainder of the study.

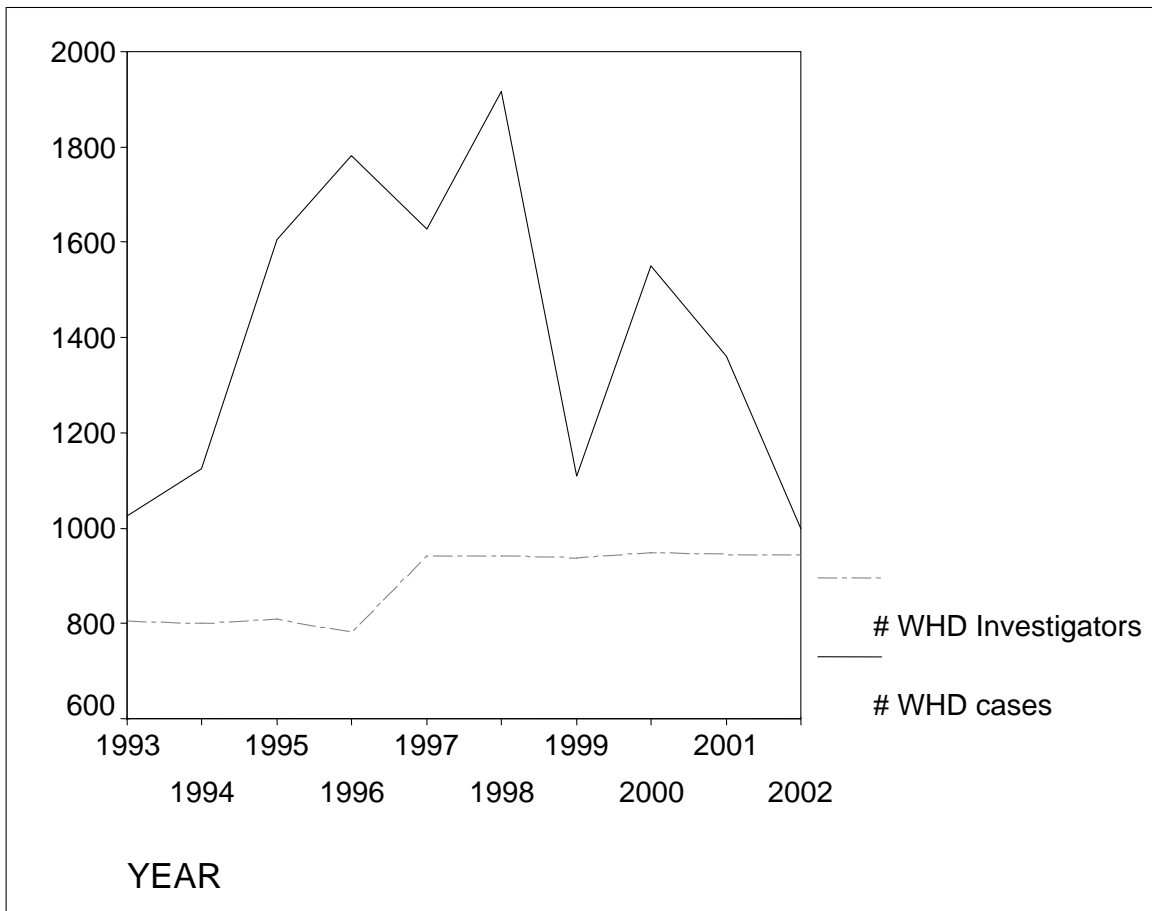
The graph supports my basic expectations in so far as budget increases should also correlate with increases in personnel (in this case, the number of investigators). Unlike graph one however, which charts WHD apparel cases only, graph two charts the number of all WHD investigators. In other words, the budget should theoretically have a larger impact on the whole of its personnel (# of enforcement investigators) compared to the accomplishments of WHD personnel in a single industry (# of completed cases in the apparel industry).

That stated, it is still possible for the number of WHD investigators to be impacted by special initiatives directed toward one particular industry, especially if the industry is being targeted for special enforcement initiatives (i.e. the “NO SWEAT” program). Indeed, under the leadership of Labor Secretary Robert Reich, the Department of Labor instituted a “No Sweat” program in 1995. The program drew attention to retailers and manufacturers who assumed responsibility for monitoring the labor practices of contractors making their garments. Given that WHD is the primary enforcement mechanism for ensuring fair labor practices, it appears that the number of investigators

increased while the “No Sweat” initiative was operational (1996-mid 1999), and then leveled off after the program was discontinued.

Quantitative Question Three asks: Is there a correlation between the number of Wage and Hour Division (WHD) investigators and the number of cases that they complete from 1993-2002? Let us now turn to Graph 3 which examines the impact that the number of WHD investigators has upon the number of completed WHD cases.

Graph 3: Correlation Statistics Examining WHD Investigators and WHD Cases
<s>17



Correlation (R) = 0.039; Sign. 0.914

The above graph illustrates that the number of Wage and Hour Division (WHD) apparel cases and Wage and Hour Division (WHD) investigators are not significantly correlated. That is, during the period extending from 1993 to 2002, the number of WHD investigators did not significantly impact the number of WHD cases completed in the apparel industry.

As restated from graph two, from 1993-1996, the number of WHD investigators was generally constant. Between 1996-1998, the graph demonstrates a fairly modest increase in the number of WHD investigators, which then levels off for the remainder of the years under study. Consistent overall upward trends were not found in the number of apparel cases completed by WHD investigators, despite the fact that there were more investigators during this time to complete such cases.

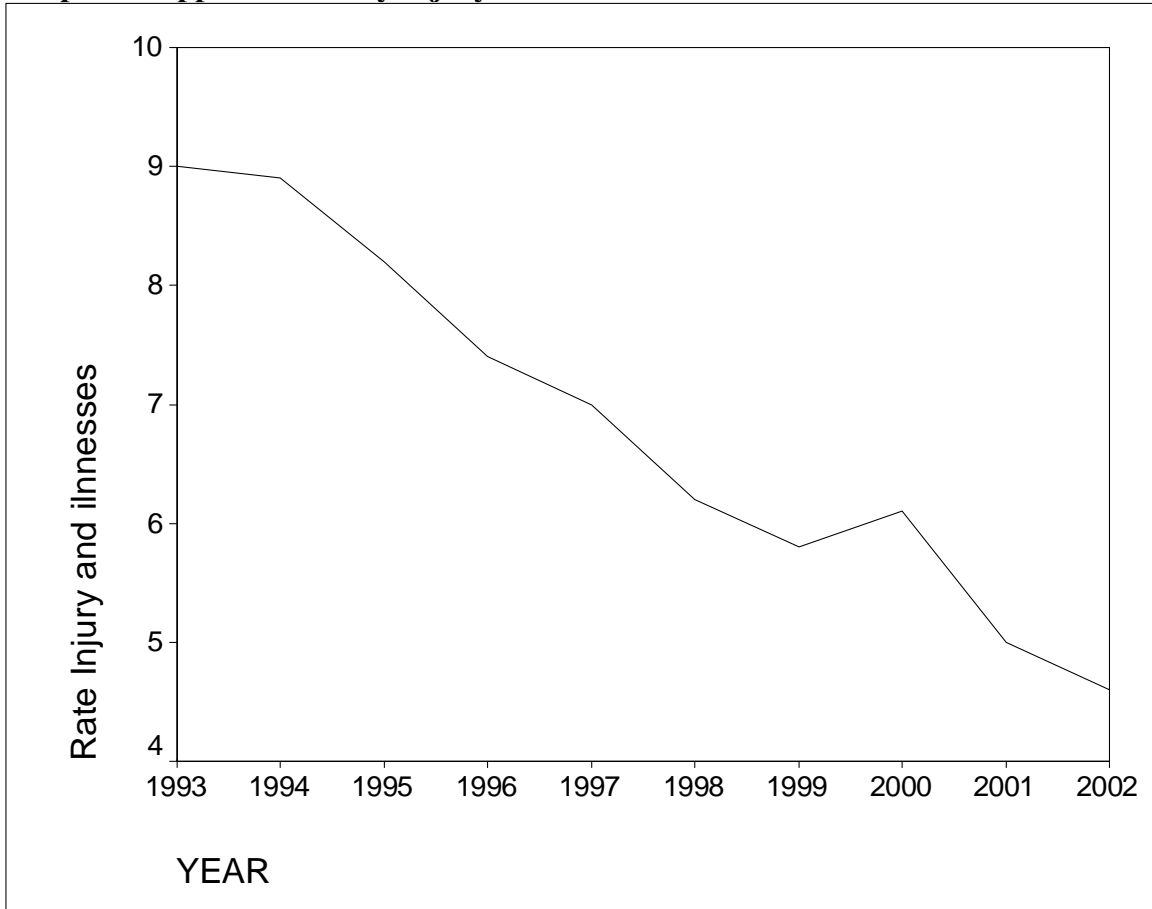
Previously articulated in graph one, the number of cases from 1993 to 2002 varied considerably from a peak of over 1900 cases in 1998 to a low of 1000 cases in 2002. Demonstrated by the above graph, WHD cases generally increased until 1998, after which a sharp decline occurred between 1998 and 1999, with a brief recovery, followed by smaller, but still rather sizeable declines from 2000-2002.

The lack of correlation between the number of WHD investigators and cases may indicate that a relatively constant rate of investigators were assigned to the apparel industry, and that increases or decreases in the overall number of investigators did not specifically impact apparel investigations. Another possible (perhaps more likely) explanation is that, given the shrinking nature of the domestic apparel industry and its workforce, fewer WHD investigators performed apparel industry investigations, despite the overall increase in the number of WHD investigators during this time period.

Finally, it is important to note that three different data management information system configurations were used to calculate the number of completed cases in the apparel industry from 1993-2002 (see footnote 2). Although enough trend years exist in both the old and new WHD data systems to demonstrate that no correlation appears to exist, such findings might be more pronounced because of the various information management systems used. Ultimately, further research in this area will help determine whether apparel cases are most influenced by industry size, regulatory/enforcement targeting, some combination of both, or some other variable not addressed here.

Quantitative Question Four asks: Is there a correlation between the injury and illness rate of apparel workers and the number of Occupational Safety and Health Administration (OSHA) apparel industry inspections, from 1993-2002? Let us now turn to Graphs 4a and 4b which examine the correlation between the apparel industry safety and health inspection rate and the rate of non-fatal apparel injuries and illnesses.

Graph 4a: Apparel Industry Injury and Illness Rate <s>18



Correlation (R) = -0.378; Sign. = .282 (See graph 4b below for illustration of OSHA inspection rate).

The above graph illustrates that the injury and illness rate of apparel workers and the number of apparel industry inspections conducted by OSHA (shown in graph 4b below), are not significantly correlated. That is, during the period extending from 1993 to 2002, the number of apparel industry inspections performed by OSHA did not significantly impact the illness and injury rate of apparel workers.

Examining Graph 4a, the reader can see that the recorded rate of apparel industry occupational injuries and illnesses fell each year from 1993-2002. As seen in the straight line graph, during the period under study, according to the BLS's Annual Survey on Occupational Injuries and Illnesses, the recorded injury and illness rate for apparel

workers was nearly cut in half, from 9.0 in 1993 to 4.6 in 2002.

In order to better understand the possible explanations for secondary data that contradict the extant sweatshop, health economics, and occupational and environmental medicine literatures, it is important to highlight the areas of agreement and departure by BLS staff economists and occupational/environmental safety, health, and medicine scholars. Firstly, I should note that the recorded drop in occupational injuries and illnesses during the period under study is not unique to the apparel industry. According to BLS staff economists Conway and Svenson (1998), most industries experienced a significant injury and illness decline during the mid to late 1990's. Secondly, I should note that the BLS economists while expressly acknowledging the many limitations associated with reporting and recording occupational injuries and illnesses, nevertheless accept the ASOII's recorded decline as valid.

According to Conway and Svenson (1998), the major reasons for the recorded decline could be summarized in three areas: (1) there was a growing awareness of workplace hazards by unions, employers, and the insurance industry during this time; (2) employers instituted risk reduction plans to further address potential workplace hazards; (3) OSHA reforms shifting away from enforcement and toward an increased focus upon partnering, outreach, and industry compliance all helped to create safer work environments.

Although Conway and Svenson's (1998) analysis was not industry specific, since no specific industries were singled out for exclusion in the authors' analysis, we can assume that the drop in apparel injuries and illnesses recorded in BLS's ASOII would be explained by Conway and Svenson using the same criteria above. If we look at the first

rationale, the reader will recall that unions were not a likely source of assistance to apparel workers during this time. By the 1990's, approximately 7% of apparel workers were unionized (UnionStats.com 2002), which is less than half of the national average for unionized private employees. Considering that apparel union membership has experienced significant declines every year since its peak in 1971 (American Worker at a Cross Road Project 1998), it is unlikely that that 7% of the unionized apparel workforce (found only in the few larger shops) contributed to the near halving of recorded workplace injury and illness rates.

Also an unlikely source for improving overall worker safety and health during this time were apparel employers. Again, recalling earlier findings by the General Accounting Office (1994) that estimate half of all apparel shops to be operating illegally, it is not probable that employers were largely responsible for halving the recorded injury and illness rate from 1993-2002. Furthermore, as Seligman et al. (year) note, contrary to BLS reports, eight major studies find that small firms have the worst record keeping and the highest occupational injury and illness rates. With 94% of garment shops classified as small, very small or micro (U.S. Census Bureau, Economic Census 2005), it must be remembered that such firm characteristics are highly correlated with intense downward economic, political, and social pressures that frequently have negative impacts on workplace health and safety.

An additional rationale provided by Conway and Svenson (1998) for the decline in recorded workplace injuries and illnesses was that (in part because of the explosion in health care costs) the expenditures on workers' compensation claims had doubled from \$22.3 billion in 1985 to \$45.7 billion by 1992, simultaneously placing downward pressures on workplace injury/illness reporting and recording---and increasing "risk reduction" strategies in many industries. Such dramatic rises in costs caused the insurance industry as well as many other industry lobbyists to pressure the State into creating new workers' compensation legislation (ibid. 1998). Similarly, health care costs in general dramatically skyrocketed over the past two decades, with recent estimated costs of occupational injuries and illnesses averaging nearly \$170 billion annually (OSHA 2003).

As Conway and Svenson (1998) report, in response to increasing industry pressures, the State initiated legislative changes including: increased prosecution and penalties for fraudulent compensation claims, curtailment of benefits paid, introduction of medical and case management regulations that more closely scrutinized workers' compensation claims, and the introduction of large deductible insurance options to employers.

The fact that both health care and workers' compensation costs rose during the 1990's and 2000's is not contested by occupational health, safety, and medicine scholars. What are challenged are some of the very explications provided by insurance and other industry lobbyists surrounding the need for workers' compensation reform. According to industrial hygienist, Lisa Cullen (1998), in 1998, workers' compensation costs were less than one and one half percent of payroll, down from a high of slightly more than two

percent in 1993. Moreover, reports Cullen (ibid.), between 1992 and 1998, workers' compensation costs to employers decreased 38%. However, employers did not pass this benefit on to their workers; benefits to workers declined 35% during this same period.

On the issue of fraudulent worker compensation (WC) claims, Leigh et al. (2000) found in their groundbreaking study on the *Costs of Occupational Injuries and Illnesses*, that the insurance industry was largely inflating estimates of WC fraud (and by extension misinforming and misguiding policymakers), and that about two percent of all workers' compensation dollars were due to fraudulent claims.

What appears ironic about industries' reports of routine workers' compensation abuse, is the deafening silence regarding worker safety and health issues that might have been and continue to be impacted by WC reforms. Namely, in the 1990's, insurers began to impose greater requirements for proving work relatedness for occupational injuries and illnesses, while wage replacements decreased (Azaroff 2004). In the apparel industry, where muscular skeletal disorders are higher and more severe than in most industries (Leigh et al. 2004), MSDs mysteriously started to decline shortly after the changes in WC legislation, after having been on the rise since 1986 (Azaroff 2004).

This alone might be explained by real improvements in workplace health and safety if we did not see a simultaneous comparable flip flop between serious and less serious workers' compensation claims. As Azaroff et al. (2004) cite in their illuminating and exceptionally well researched work "Wounding the Messenger: The New Economy Makes Occupational Health Indicators Too Good to Be True," between 1993 and 1997, WC claims in 37 states showed decreases of an estimated 36% in permanent total disabilities, 26% in partial disabilities, 9 % in temporary total disabilities, and 6% in medical only claims (Ceniceros

2001). On the other hand, light duty cases of disability rose by about 50% from 1992-1997 (Fletcher 2001).

The precise measure of how downward legislative and industrial pressures impacted occupational injuries and illnesses in the apparel industry during the period under study is not known. However, there is a large body of evidence to suggest that the expansive and penetrating industrial and governmental policy shifts of the 1980's and 1990's, increased the level of precarious employment, decreased wages and opportunities, and helped to create a super-vulnerable population of immigrant workers (Azaroff 2004).

All of the above directly impact the apparel industry in the United States. Specifically, according to the Bureau of the Census's 1992, 1997, and 2002 Economic Censuses (U.S. Department of Commerce 1996; 2002; 2005), the number of larger manufacturers in the apparel industry shrunk dramatically during the study period. For example, in 1992, there were 4,632 medium or large apparel firms (ibid. 1996). By 2002 there were only 738 medium or large apparel firms, and only 10% of these firms were classified as large (ibid. 2005). While it should be noted that Economic Census utilized the SIC classification system for 2002, and NAICS for the 1997 and 2002 data, the downward trends for each period are consistent for all years and establishment sizes.

Today, what remains of domestic apparel production are chiefly smaller firms and homeworkers. Small firms are much more likely to be uninsured and non-unionized, and as stated before, small firms have the worst occupational injury and illness reporting track record (Seligman 1988) Even the World Bank finds that smaller firms that are either less capable of adopting safe work practices or are less exposed to negative public

relations may be reluctant to make the necessary remediations for a safe and healthy workplace (Sabel, O'Rourke, and Fung 2000).

Other factors that may have impacted apparel occupational injury and illness reporting include a decrease in access to health care for larger numbers of workers. For example, in the 1990's more industries (including apparel) sought flexibility to take on and shed employees at irregular, short-term intervals according to market changes (Azaroff et al. 2004). This increase in contingent (short term) workers was trumpeted by the apparel industry as "just in time" fashion. While undoubtedly the flexibility was useful from the industry's standpoint of profit making, the negative aspects for workers meant that fewer of them would be eligible for health benefits, unemployment insurance, or workers' compensation. This is of significant concern from the standpoint of health and safety because contingent labor is associated with increased job hazards and decreased reporting (Azaroff 2004).

Also of significance, is that between 1977-1998, the average annual health insurance premiums share per worker increased three and one half times while real wages during this time declined. During this time, many low wage employers stopped providing health insurance benefits at all (ibid. 2004).

Related to the above is the growth in immigration (before and) during the period under study. According to the Kaiser Commission (2000), the proportion of immigrants rose steadily from 4.7% in 1970 to 10% in 2000. Significantly, Azaroff reports that (2004:9) "just as these large (immigrant) populations were arriving, immigration reform measures legally forbade large sectors of the workforce from living or working in the U.S., but provided neither the policies nor resources for consistently enforcing these

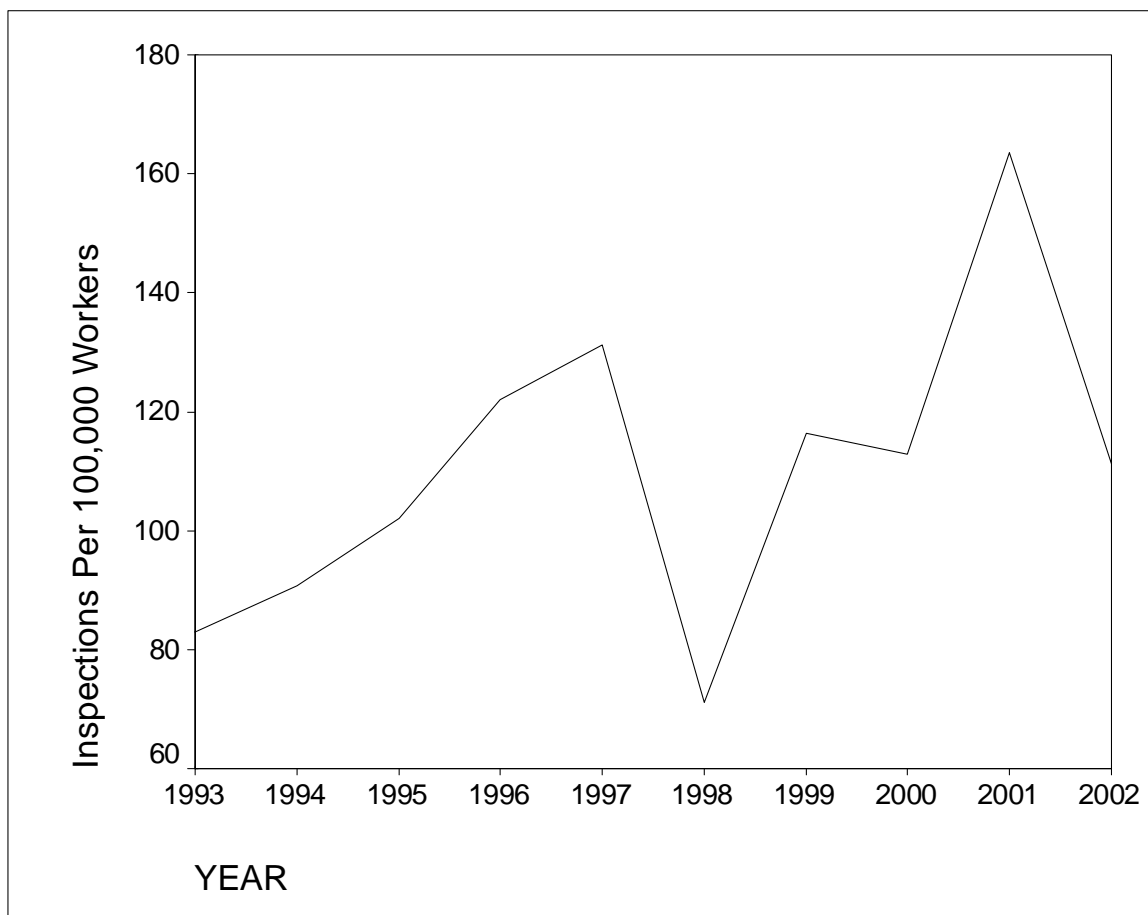
prohibitions.” This hyper-exploited labor class could thus be simultaneously hired and fired with little protections or oversight from the State.

Returning to an earlier finding by Conway and Svenson (1998) affirming the decline in workers’ compensation claims during the 1990’s, Fletcher (2001) reports that the industries reporting the greatest declines in the frequency of workers’ compensation claims during the 1990’s were precisely those newly staffed by immigrants: apparel, restaurants, grocery stores, and hotels. In response to both the decline in union membership in these industries, as well as the need to organize greater numbers of immigrant workers, Unite Here formed in 2004. With a membership of only 440,000 members in 2004 (Unite Here), UH represents workers in a broad range of immigrant populated industries including apparel, textile, distribution/retail, gaming, hotel, airport, laundry, and multi-service.

Now that I have unpacked the many limitations associated with ASOII’s recorded apparel injury and illness data and the purported decline in the rate of sick and injured workers, let us now look at the line graph for the apparel inspection rate which provides the number of apparel industry inspections performed by OSHA, for every 100,000 workers.

Graph 4b: Number of OSHA Apparel Inspections per 100,000 Workers,

1993-2002



(For Correlation Description, See Graph 4a)

Graph 4b demonstrates the broad shifts in the rate of apparel industry inspections conducted by OSHA, from 1993-2002. Due to the significant decrease in the number of apparel workers from 1993-2002, the measure of OSHA apparel inspections was standardized to allow for equivalent, cross year comparisons (inspections were measured per 100,000 workers). During the period under study, the largest *number* of apparel industry inspections occurred in 1996 (n=1,078), one year after the explosive El Monte case in California. However, when examining the highest rate of apparel industry inspections, the reader can see that the rate of OSHA apparel inspections was the highest

in 2001, with 163 inspections for every 100,000 workers. Why inspection rates decreased between 1997-1998 and again between 2001 and 2002 is not known. What both years have in common is that they represent the first years under different Labor Secretaries (Alexis Herman and Elaine Chao, respectively). Perhaps the first transitional years for both labor chiefs initially lowered the rate with which OSHA conducted apparel industry inspections, as each determined where enforcement efforts should best be targeted.

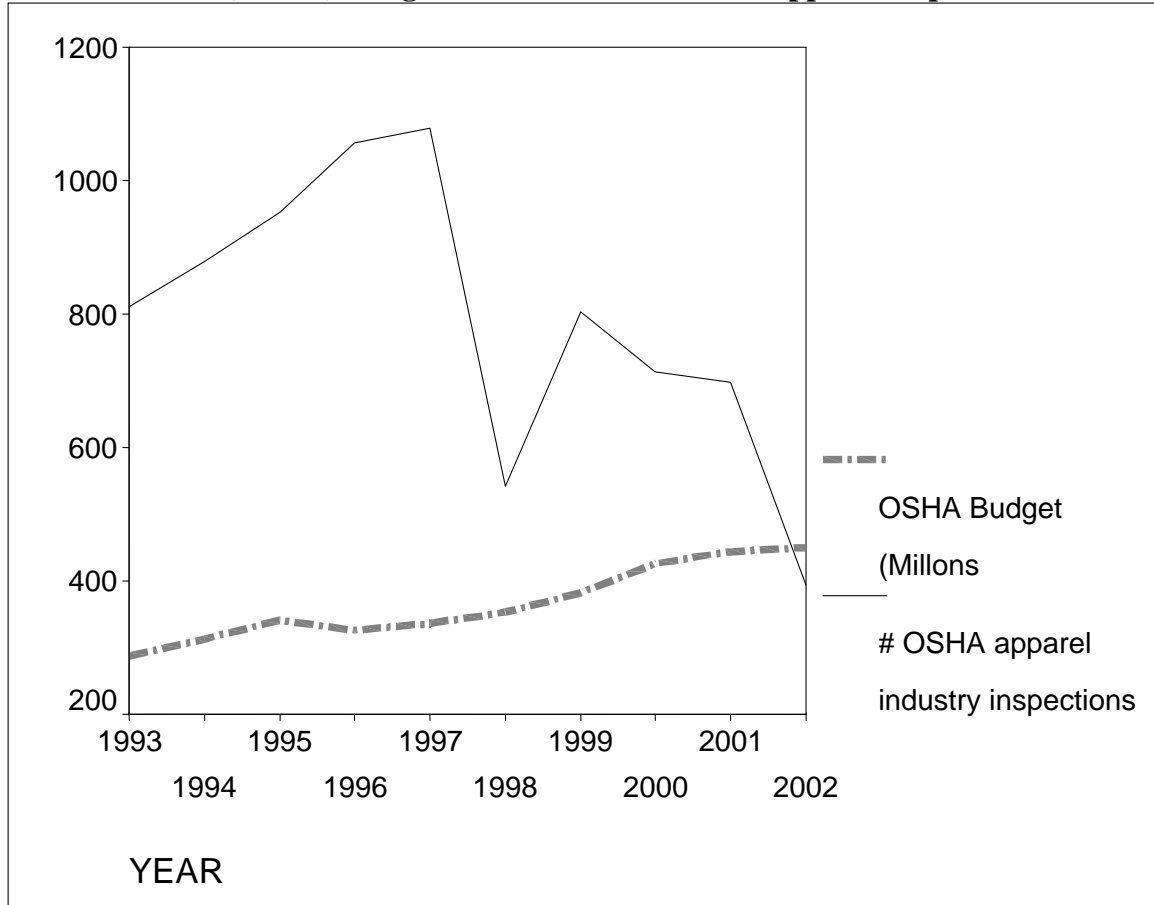
As reiterated from the correlation description above, what is known, is that despite the general overall increase in the rate of apparel industry inspections (save 1997 and 2001), there does not appear to be a significant correlation between the rate of apparel industry inspections and the rate of occupational injuries and illnesses in the apparel industry. These findings may offer support for the hypothesis that external factors (i.e. increases in workers' compensation premiums, health care costs, immigration, coupled with harsh legislative changes in the areas of immigration and WC reform) lowered the reporting and/or recording of occupational injuries and illnesses, and that neither inspections nor improvements in OSHA's business outreach efforts during this time period made workers any safer.

Recalling chapter four on OSHA, with respect to the Administration's enforcement strategy, OSHA attempt to maximize its minimal enforcement budget, by targeting larger, unionized workplaces. Given what we already know about the nature of the apparel industry, and its very small number of unionized and large establishment size shops, it is fair to assume that OSHA's current inspection strategies would have any meaningful impact on occupational injuries and illnesses in the apparel industry.

Quantitative Question Five asks: Is there a correlation between the OSHA budget

and the number of Occupational Safety and Health Administration inspections in the apparel industry, from 1993-2002? Let us now turn to graph five where we will examine the impact that the OSHA budget has had upon the number of inspections in the apparel industry.

Graph 5: Correlation Statistics Examining Occupational Safety and Health Administration (OSHA) Budget and Number of OSHA Apparel Inspections <s>20



Correlation (R) = -0.642; Sign. = .045

The above graph illustrates that the budget of the Occupational Safety and Health Administration (OSHA) and the number of apparel industry safety and health inspections are significantly correlated. That is, during the period extending from 1993 to 2002, as the OSHA budget increased, the number of OSHA apparel industry inspections decreased.

Examining Graph 5 above, the dotted line shows the Gross Budget Authority of OSHA from 1993-2002. Similar to the overall upward trend of the ESA Budget, OSHA's budget has grown 65% from \$291 million in 1993 to \$445 million in 2002. As Weil (2003) reminds us however, in terms of real dollars, the budget for this time period should be interpreted as stable, rather than growth. Also, similar to the case of WHD, it must be remembered that OSHA inspectors have more work to do today than they did in the early 1990's. By the early 2000's, there were (and continue to be) many more workers (120 million) and job sites (7 million) to inspect than there were in the early 1990's.

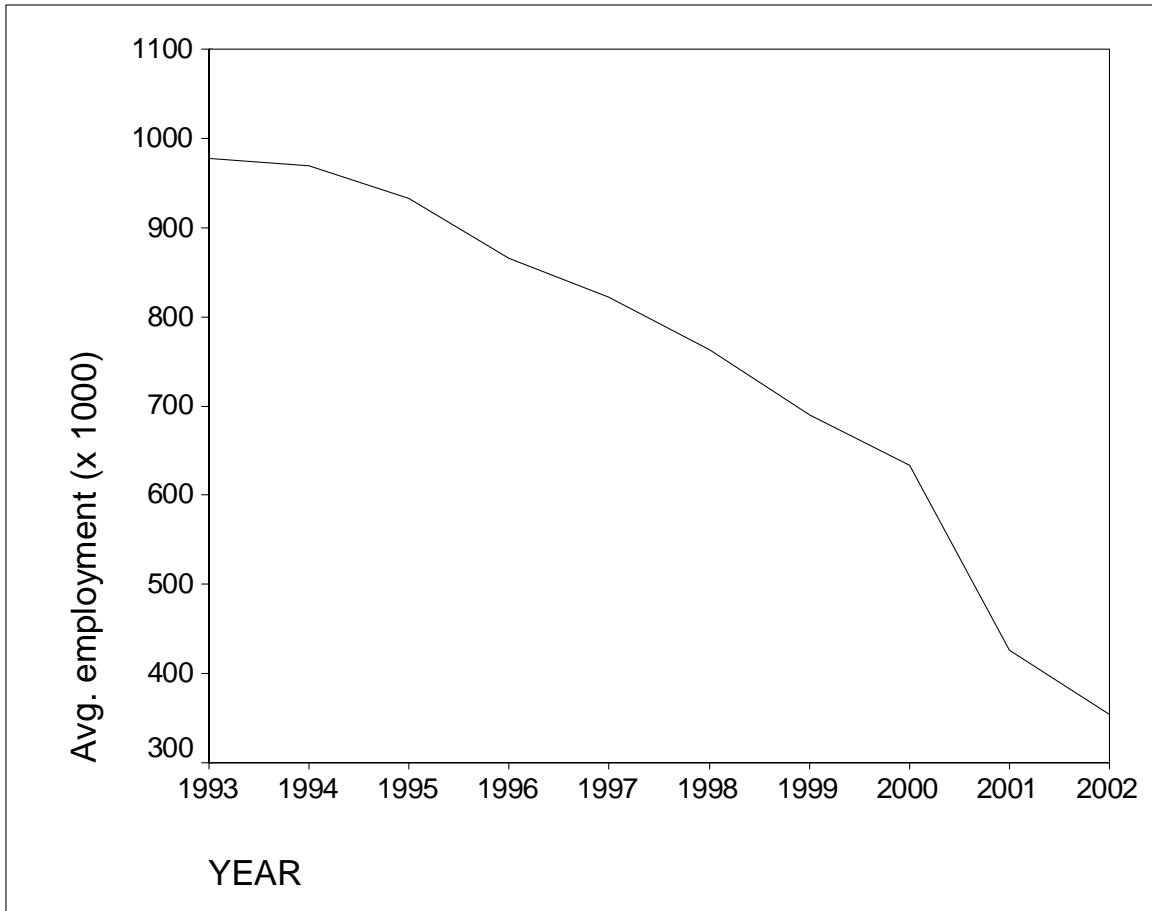
As evidence of this under-funding, with a total budget of \$450 million in 2002, this meant that less than \$4 was being spent for every American worker. By OSHA's (2003) own accounting, each year more than 6,000 Americans die from workplace injuries; nearly 50,000 die from toxic workplace exposures; and nearly 6 million suffer from non-fatal workplace injuries and illnesses at an annual cost of \$170 billion. As such, the allotted budget for each year remains insufficient relative to the injuries, illnesses, and fatalities that plague many American workers and workplaces.

In Graph Five, the significant inverse correlation that exists between the OSHA budget and apparel inspections may be explained largely by one intervening variable:

number of apparel workers. From 1993-2002, the number of apparel workers fell for each consecutive year. From 1997 onward, as the number of apparel workers decreased, so too did the overall number of apparel industry inspections. Thus, in context, the increased OSHA budget (while appearing to be related to the number of apparel inspections), seems to have merely overlapped in large part with the decrease in the number of apparel industry inspections. One final note on the issue of inspections, is that during the 1990's under the Clinton Administration, OSHA moved away from enforcement toward industry outreach, partnering, and collaboration to address workplace injuries and illnesses (Conway and Svenson 1998). Such reforms could have also played a role in the decreased number of apparel industry inspections.

Quantitative Questions Six asks: Did the number of domestic apparel workers decline from 1993-2002? Let us now turn to Graph Six which illustrates the precipitous decline in the annual average employment numbers of apparel workers.

Graph 6: Average Annual Employment of Apparel Workers, 1993-2002 <s>21



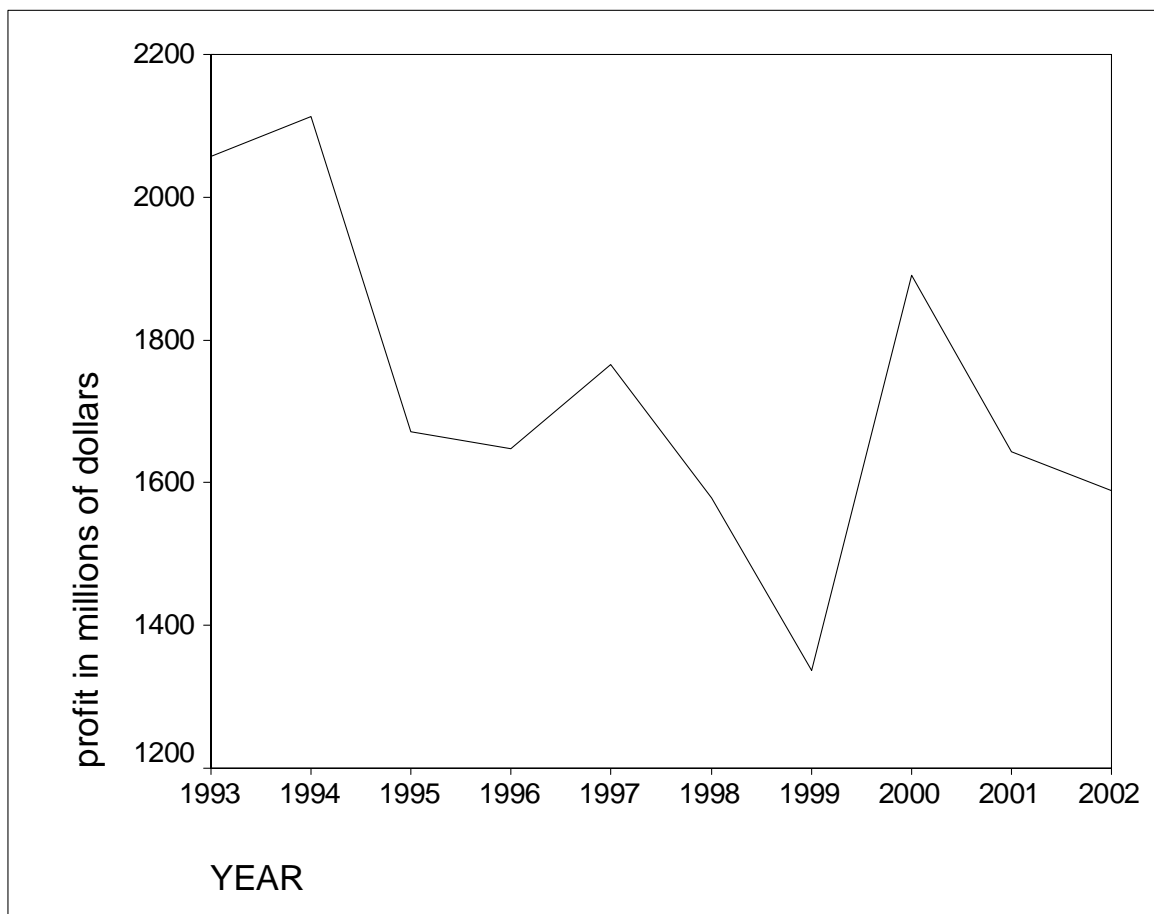
Graph Six demonstrates that between 1993 and 2002, the annual average number of apparel workers decreased by almost two-thirds, from approximately 977,000 employees in 1993 to about 354,000 employees in 2002. While the number of domestic apparel workers had been decreasing for over a decade prior to the early 1990's, the passage of NAFTA in 1994 greatly accelerated the pace of outsourcing, and drastically accelerated the rate with which apparel jobs were eliminated in the U.S. In fact, as Hottenrott and Blank (1998) report, as of 1997, NAFTA registered job losses appeared to contribute to an approximate 23% nationwide net job loss in the apparel industry.

The precipitous decrease in the number of apparel workers during the period

under study supports qualitative question two which asked whether corporate globalization had a negative impact on the working conditions of domestic and global apparel workers. Domestically, globalization remains the primary reason for apparel job loss; abroad, globalization is chiefly responsible for driving down apparel wages around the world.

Quantitative Question Seven asks: Did Apparel Industry profits increase from 1993-2002? Let us now turn to Graph 7 where we will examine Apparel Industry Profits from 1993-2002.

Graph 7: Apparel Industry Profits, 1993-2002



Graph 7 demonstrates that overall, the apparel industry has experienced a rather dramatic decrease in profits from 1993-2002. During the period under study, apparel industry profits peaked at \$2.05 billion in 1993, and were at their lowest in 1999 with \$1.3 billion in profits. The line graph further shows that apparel industry profits plummeted from 1993-1995, and then leveled off for about a year before rebounding slightly between 1996-1997. From 1997-1999, apparel industry profits endured another significant decline, before gaining the only sizeable increase in profits the following year. Finally, following 2000, apparel industry profits tumbled once more, albeit not as precipitously as in the early 1990s.

In interpreting the overall decrease in apparel profits, there are several possible explanations, many of which overlap with one another. Firstly, relative to many other major manufacturing industries, the overall profit margin in the apparel industry is razor thin (Bonacich and Appelbaum 2000). There are a few large apparel firms which post handsome profits. However, as stated previously, most of the apparel firms are small, very small, or micro-sized. What this means in terms of profit distribution within the apparel industry is that there is essentially two unequal manufacturing sectors in apparel: the few number of big players that reap the lion's share of profits and the larger number of small players, whose profits are generally quite limited (ibid. 2000).

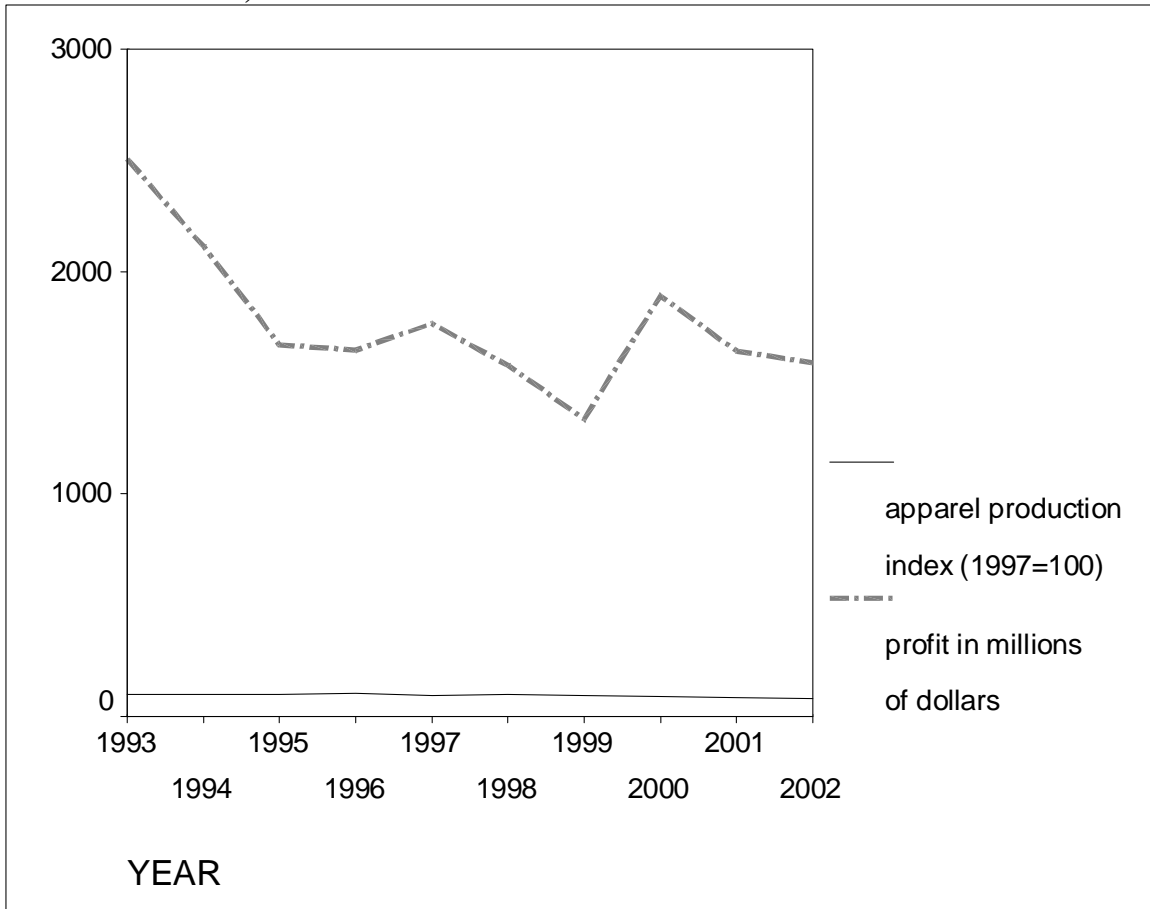
Following the passage of the North American Free Trade Agreement (NAFTA) and the removal of the last of the protective trade tariffs, we see a significant decline in the total profits of the domestic apparel industry. As supported by industry specialists, the Department of Labor, and apparel unions alike, domestic apparel industry profits were undoubtedly negatively impacted by the acceleration of outsourcing following the

passage of NAFTA. What is interesting to note however, is that profits did not fall as dramatically as production output (see Graphs 8a and 8b).

Another possible outcome of decreasing profits which is relevant to the findings in this study, is that, as previously discussed, falling profits may have made employers more reluctant to report or record occupational injuries and illnesses due to escalating health care and workers' compensation costs. Although the shrinking apparel workforce might have had the effect of making State inspections more feasible, such intense downward financial pressures within this industry should not be ignored when studying what effects and to what degree significant profit losses have had upon the employment conditions of domestic apparel workers.

Quantitative Question Eight asks: Is there a correlation between Apparel Industry profits and the Apparel Production Index from 1993-2002? Let us now turn to Graphs 8a and 8b which examine the impact that apparel worker output (measured as the apparel production index) has had upon apparel industry profits.

Graph 8a: Correlation Statistics Examining Apparel Industry Profits and Apparel Production Index, 1993-2002



Correlation (R) = 0.251; Sign. = .502

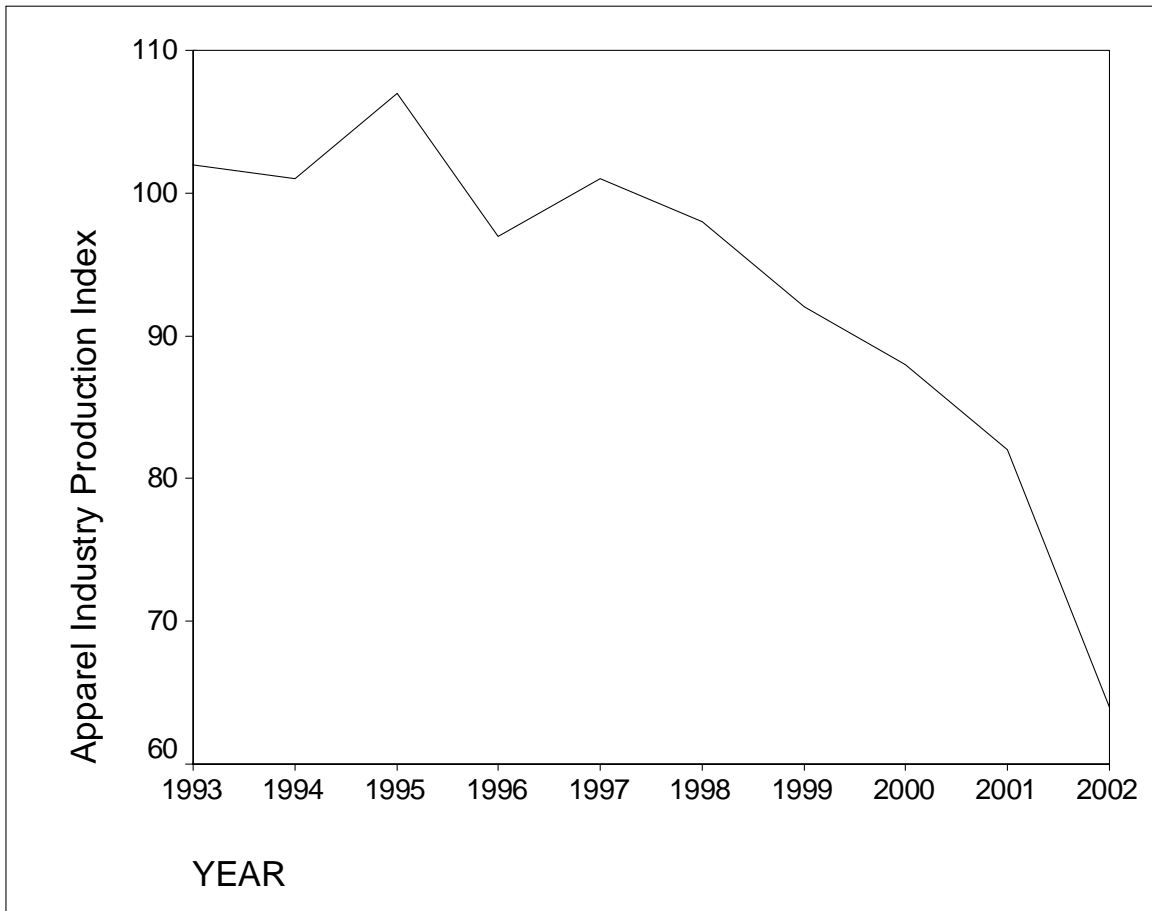
The above graph illustrates that the apparel production index and apparel industry profits are not significantly correlated. That is, during the period extending from 1993 to 2002, the apparel production index did not significantly impact profits in the apparel industry.

As stated in the previous graph, profits in the apparel industry as a whole did not decline as much as the apparel production output. This may indicate that manufacturers, jobbers, and contractors were able to save costs in other ways (i.e. increasing contingent labor force, job eliminations/layoffs, reduction in real wages, and skimping on health and safety measures). Or, it may also indicate that the return on the smaller number of higher

wage, American made garments were substantial enough to stem the overall profit loss relative to the overall production output loss.

What is certain is that in a post-NAFTA apparel industry environment, workers fared far worse than their capital counterparts, and that worker exploitation increased even during a time when overall industry profits remained low. For a look at how apparel worker exploitation grew between 1993 and 2002, please see Graph Nine.

Graph 8b: Apparel Industry Production Index, 1993-2002



(See Correlation Description for Graph 8a above).

Because the independent variable (apparel production output) is measured at a different level than the dependent variable (apparel industry profits), the meaning of the apparel index line in Graph 8a is difficult to discern. Therefore, Graph 8a is used to show the (lack of) correlation between apparel production output and apparel industry profits, and Graph 8b is used to illustrate the degree to which apparel output has fallen.

As recalled from the chapter on Research Methods, the apparel production line graph is an index that measures ten years in a data set to determine the average score or standardization point. Between 1993 and 2002, the standardization point of 100 occurred in 1997. Using this measurement index, the reader can see the degree to which apparel output exceeded, met, or fell below its production capacity.

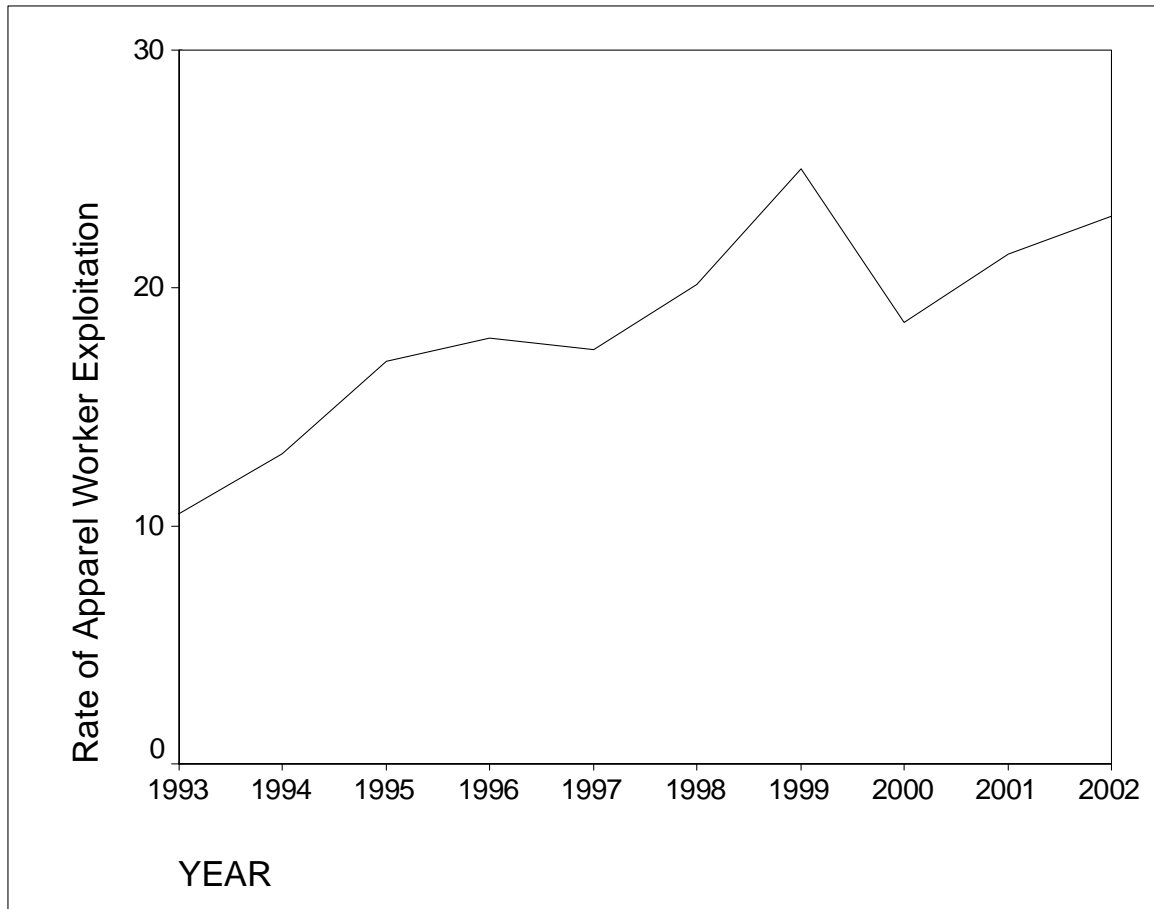
Graph 8b shows that the overall production output of apparel workers decreased. From 1993-1998, apparel production output is within three units of the standardization point, save 1995, when production measured a high of 107. It should not be surprising that as the number of apparel workers decreased, and the number and rate of apparel imports increased, domestic production would drastically be scaled back. The apparel production index graph is yet another indicator of the many ways in which corporate globalization has harmed domestic (and global) apparel workers.

Finally, the apparent lack of correlation between worker production and industry profits, where profits were falling at slower pace than production, may signify (as said previously), that the apparel industry compensated in other ways than apparel sales, or as Lynch (2005) suggested, that the industry earned enough of an overall profit in the larger firms manufacturing American made, higher cost garments.

Quantitative Question Nine asks: Did the level of exploitation of apparel workers

increase from 1993-2002? Let us now examine the rate of apparel worker exploitation, which measures the rate of apparel industry profit relative to employee compensation.

Graph 9: Rate of Apparel Worker Exploitation, 1993-2002



As recalled from the previous chapter, for the purposes of this study, exploitation is defined as average weekly worker wage divided by weekly apparel industry profits, multiplied by 100,000. The results provide a general measure of exploitation by converting apparel worker wages into a proportion of apparel industry profits, and may be considered to be an alternative operationalization of the rate of surplus value (Marx 1974).

Using the formula described above, the overall rate of apparel worker exploitation increased between 1993-2002, from a low of .667 in 1993 to a high of 1.15 in 2002. In fact, for every year save 1997 and 2000, the rate of exploitation consistently increased, and showed an overall increase of 72 percent. What these findings signify is that over a ten year period, apparel workers were producing more relative to what they were getting paid. Put another way, the gap between apparel industry profits and apparel worker wages widened between 1993 and 2002.

Thus, while much discussion regarding apparel compensation in industry and government literature surrounds the apparel industry's overall low profit margin (relative to other manufacturing sectors), predictably, there is virtually no discussion in either of these bodies of literature about the ratio of industry profits to apparel wages, nor of an "acceptable" or desirable level of worker exploitation. To use Marxian terminology, at least publicly, there is no unpacking of what the apparel rate of surplus-value ought to be. What we do know is that a sizeable amount of apparel worker exploitation exists regardless of whether their productivity increases or decreases.

In sum, the measure of exploitation is yet another important indicator of the worsening employment conditions for domestic apparel workers. With the decrease in labor power (unionization) and the concomitant increase in globalization, not only were more apparel workers losing their jobs, but those that remained in the domestic apparel labor force were toiling under more exploitive economic conditions than they were at the beginning of the 1990's.

Summary of Findings

In closing, let us summarize what we have learned in the Discussion and Results chapter. From our nine quantitative research questions we have learned that between the years 1993 and 2002, the ESA and WHD budgets significantly impacted the number of WHD investigators, but that neither budget was correlated with the number of WHD cases completed. Such findings seemed to indicate that other external factors (political pressure, media attention, etc.) as well as organizational variables (number of investigators working apparel cases, number of yearly cases involving multiple labor violations, etc.) may have played a more important role in determining how many apparel cases were completed each year by the Wage and Hour Division.

In our safety and health related budget questions, we learned that the annual OSHA budget was inversely correlated with the total number of OSHA apparel industry inspections. As the OSHA budget increased, OSHA apparel inspections decreased. Given the fact that the apparel workforce was precipitously declining at the same time that the overall OSHA budget was increasing, the inverse correlation between budget and number of inspections appeared to be spurious.

With respect to the impact that OSHA apparel inspections have had upon the industries' injury and illness rate, we learned that the two variables were not significantly correlated. With abundant supporting data from the occupational safety, health, and medicine literatures it was determined that (1) OSHA inspections were not targeting the smaller, non-union, uninsured, transient, high-risk firms that employed large numbers of immigrant and contingent workers; and (2) that ASOII's recorded decline in apparel industry occupational injuries and illnesses was likely the result of an increase on the

macro (structural) and micro (organizational) economic and political downward pressures on reporting and recording. Specifically, increases in immigration, punitive changes in immigration legislation, welfare reform, access to health care, including (anti-)workers' compensation legislation, all served to increase the obstacles for employee-employer injury/illness reporting and recording. Such an explanation negates the role played by OSHA inspections, because it challenges the findings of decreased apparel injury and illness rates.

In this chapter, the reader was also reminded that only a tiny fraction of apparel workplaces are ever inspected by OSHA Compliance Safety and Health Officers (CSHOs). Therefore, even if the data were both valid and reliable, given the current (nominal) OSHA inspection practices, it is unlikely that inspections would significantly impact occupational injuries and illnesses one way or the other. This does not imply that inspections do not work. Rather, it implies that the inspections conducted during the study period were performed at too low a rate to have meaningfully improved the safety and health of the apparel industry workforce. Future research may wish to consider factor analyses that measure the degree to which specific OSHA, other State, and industry practices impact injury and illness rates in the apparel industry.

Our last group of quantitative questions measured the economic conditions of the apparel industry and compared these conditions with those of apparel workers. To do this we examined apparel industry profits, apparel industry profits in relationship to apparel production output, and the rate of exploitation (i.e. apparel worker weekly wages as a proportion of apparel industry profits).

What we learned was that overall, apparel industry profits generally decreased

during the period under study. The hyper-accelerated pace of globalization brought upon by NAFTA, eliminated the last of protective quotas and tariffs, and dramatically increased apparel imports and apparel job losses in the U.S. Moreover, “the race to the bottom” exacerbated by globalization, meant that domestic retailers had to sell clothing more cheaply, which negatively impacted every link in the apparel commodity chain.

In examining the relationship between apparel production and industry profits, we uncovered no significant correlation. Both apparel production and industry profits generally fell from 1993-2002. However, the apparel production index illustrated that output dropped much more quickly than did apparel industry profits. What this likely signifies is that the apparel industry was successful in cutting costs elsewhere, so that profits were not nearly as effected as they would have been had they declined in proportion to apparel output. This also could have signaled that apparel profits (in the few larger firms) were large enough to stem at least some of the overall profit loss.

These findings lead us to our final quantitative research question which measured the rate of exploitation as the proportion of apparel wages relative to apparel industry profits. From these data, we discovered that the overall rate of apparel worker exploitation increased from 1993-2002. Put another way, we uncovered that the gap between workers’ wages and industry profits widened, and that by study’s end, apparel workers were producing more garments relative to what they were getting paid.

Finally, the link between the qualitative/historical comparative analysis and the quantitative secondary data analysis is that, at the beginning of the 21st century, domestic apparel production (save the fashion district of Los Angeles) is rapidly vanishing in most U.S. cities and states. With the elimination of the final protective quotas and tariffs in

apparel, the industry will continue to expand its global production, which will generally mean lower wages for the remaining domestic apparel workers, and the continued increase of immigrant workers who themselves are often exploited by the expanse of corporate globalization.

For the majority of non-native born, domestic apparel workers operating without a union contract, negotiating better wages and safer and more healthful working conditions are often as challenging today as they were at the turn of the twentieth century. To be sure, federal labor legislation (including both wage and health and safety laws) have and do help. There is little denying that workers benefit from protective legislation—though because such a large proportion of the industry is believed to be operating illegally—such protection is often not afforded to apparel workers. And, in the present anti-immigrant legislative climate, workers must contend with increased ICE raids, anti-immigrant local ordinances, and an overall nativist sentiment that often causes immigrant workers to avoid public institutions that might otherwise provide much needed safety, health, and compensation assistance.

In short: has OSHA helped? In the few larger firms that are more vulnerable to negative public relations, and who are financially capable and willing to reorganize business practices prioritizing safety and health, I would argue, yes. OSHA-industry outreach and partnerships may also prove effective for such firms. However, it is unlikely that voluntary compliance alone (or even as a majority strategy) will decrease occupational injuries and illnesses. For too large a number of smaller firms, apparel shops remain as dirty, dangerous, and to only a slightly lesser extent, as poorly remunerated as they did prior to the passages of the OSH Act.

Let us now turn to the Conclusion chapter, where I summarize the overall dissertation findings and provide future research and policy recommendations for improving the health, safety, and compensation of apparel workers.

Chapter Seven

Conclusion

The purpose of this dissertation was to explore the role that corporate and governmental malfeasance has played in creating and sustaining the American and global sweatshop. Employing an historical comparative approach, we learned first that the power of labor unionization was a significant and necessary force in combating unsafe, unhealthy, and poorly remunerated working conditions. We also learned the pitfalls of union organizing where ownership and control over production, were traded upon by union leaders for the narrower and more variable gains of income maintenance, particularly following the Second World War. Today's apparel union, UNITE HERE (formed July 2004), is all too aware of this history, and has consolidated membership outside of its apparel and textile base with several service industries that share in common a majority of female immigrant workers. As in the past however, union leadership is still heavily male dominated, and according to the Unite-Here website, overall active membership has not grown past 440,000 members since the new union's formation in 2004.

As is replete in the sweatshop literature, union organizing must continue to internationalize if there is any hope in salvaging domestic apparel production in most regions and cities in the U.S. The sweatshop literature is clear: apparel labor and compensation conditions abroad must first improve in key areas so that domestic workers do not continue to be pitted against the most vulnerable worker populations around the

globe. Certainly, without such labor power, the surviving domestic apparel workers will continue to face an uphill battle in securing their fundamental labor rights.

Following the first chapter, we learned that the genesis of corporate globalization was ironically borne during the decade that began New Deal worker reforms. The origins of trade liberalization, which was not mobilized until after World War II, began during an era of labor reform and promise. Yet even with the tangible, meaningful gains for apparel workers, the countervailing trend of privileging State power and objectives (most notably the U.S.'s anti-Communist foreign policy agenda), all but ensured that these gains would be ultimately be temporary. As unionists and apparel workers would painfully be reminded in the decades to come: only workers can organize, agitate, and formulate labor policies that serve their best interests.

Thus, it is apparent from the query on corporate globalization's effects, that domestically, labor in general, and apparel specifically, have paid a heavy price in terms of the decline of their real wages, the number of hours worked, and the quality, safety, and health of their work environment. Domestically, apparel workers are routinely pitted against their global sisters and brothers (and with one another), by retailers, manufacturers, jobbers, contractors, and subcontractors in pursuit of the lowest cost region, establishment, or worker. Such fierce competition is exacerbated by the fact that many of the nation's apparel workers are immigrants (often lacking required documentation) which puts them at great odds with securing better working conditions.

Globally, these conditions are even worse. As Karl Marx observed some 140 years ago in his first volume of *Das Kapital*, as labor productivity increases, the value of the workers' output and compensation decreases. Likewise, the sweatshop literature uniformly reports that despite the increase in productivity of apparel workers in EPZ's since the early 1990's, these workers continue to see their real wages decline, year after year. Such an inverse relationship between the volume of goods produced and the compensation provided for that work, characterizes the very unequal balance between capital and labor in a capitalist political economy generally, and under corporate globalization, specifically.

Of course it must be recalled, that both domestically and globally, not all workers are exploited similarly. As discussed in chapter two, the intersecting statuses of race, class, gender, immigration, age, and country of origin, collectively shape a person's available opportunities and choices, of which employment is a significant part. It is not accidental that young, largely immigrant, women and girls dominate the apparel trade around the globe (including the most exploited EPZ regions), and that their labor is classified as low-skill and largely replaceable. Corporate globalization could not exist, and capitalism could not exist without vulnerable worker populations (particularly female populations) to exploit.

By creating and sustaining categories of marginalization, both the State and capital benefit by having a readily available supply of pliable labor, whose demands can be more readily ignored precisely because of the statuses with which they occupy. In apparel, sewers (who are largely women) can be paid less than cutters (who are largely men) because their labor is defined as less valuable. Immigrant workers can be paid less

than native-born workers because of their perceived willingness to work for lower wages. The young in particular can be manipulated and intimidated more easily than their older, more experienced counterparts.

Another point on which sweatshop scholars are clear, the greater the number of intersecting marginalized statuses that one occupies, the more likely she or he will occupy a low wage, low status, labor intensive, hazardous, and poorly compensated job. Both the State and capital know this of course, which is why tensions are ever present between the roles of each in facilitating or limiting harms befalling workers.

We have learned from previous chapters that State regulation certainly has the potential to help apparel workers, and as seen in other industries, OSHA has generally been most effective in its early years, and when targeting larger, unionized workplaces (Weil 2003). Unfortunately, none of the optimal conditions above have existed in the apparel industry for decades. Moreover, the effectiveness of OSHA generally, and in the apparel industry specifically, has been hampered by chronic under-funding, understaffing, under-inspecting, (employee-employer) under-reporting, and (employer)under-recording.

As a contemporary scorecard, the purported goals set forth in the OSH Act are not even close to being realized today. Chief among OSHA's limitations is its resources. Sufficient resources are a must in order to create the necessary safety and health standards used by CSHO investigators in citing employee violations. Without such standards, there is no regulation to violate. Of course standards must be accompanied by a sizeable cache of well-trained inspectors who can effectively target their resources at industries with known health and safety violations. At present however, major under-

reporting and under-recording problems in an industry with such a large volume of illegally operating apparel shops has created an erroneous perception by OSHA that apparel is a low hazard industry. With such a classification, and the concomitant nominal regulatory oversight, it remains extremely doubtful that with (1) the growth in economic insecurity; (2) the exclusion of increasing numbers of immigrant workers from reporting systems; and (3) the spread of incentive systems rewarding low injury and illness reports (Azaroff 2002), that apparel worker injuries and illnesses have been declining.

With the continual shift away from enforcement, as exemplified by the approximate 2% of American workplaces presently inspected by OSHA CSHO's, the major regulatory emphasis remains upon cooperative programs, and employer education and information efforts. As has been demonstrated in previous chapters, capital (through heavy industry lobbying of the State) has historically been quite successful at largely dictating the conditions and compensation of labor, determining (only after strenuous worker protestations) what it considers to be the most obvious and egregious hazards, and deciding how it plans to remedy existing hazards or respond to regulations, regulators, and sanctions.

In the apparel industry, as in many industries, as worker and union strength declined, and as de-regulation, de-industrialization, capital flight, and corporate globalization expanded, capital's strength in controlling the health and safety regulatory process widened considerably. Today, cooperative programs and (largely) voluntary compliance amounts to industry "self"-regulation. While according to Weil (2003), there is some evidence that this approach *may* have some utility with large, unionized businesses that are vulnerable to negative publicity, the apparel industry simply does not

fit this description. Simply put, to utilize a regulatory strategy of voluntary compliance and cooperation with an industry possessing so many documented vulnerabilities, limitations, and illegal practices amounts to governmental malfeasance.

Historical Comparative Analysis in Sum

To summarize the historical and modern era findings, by the early 21st century, apparel workers remained among the lowest paid workers of those employed in the manufacturing sector, and in the bottom 10% of all wage earners in the U.S. With the contemporary rise of corporate globalization in the late 1970's and early 1980's, domestic apparel employment, unionization, and production began (and continues) to fall to this day. The overall apparel industry itself has seen a decline in profits, although at a much smaller rate than the apparel production loss. For workers, this has meant an increase in the exploitation of their labor. And, as stated in the previous results and discussion chapter, the small number of large manufacturers are responsible for the lion's share of apparel industry profits, which signifies that a small number of manufacturers (and of course retailers) are most responsible for the cut-throat cost cutting that occurs at each step along the commodity chain.

Labor power in apparel, as measured by union enrollment, has decreased every year from 1975 to 2004 despite two mammoth mergers in the past decade. Likewise, trade liberalization and quota and tariff elimination has heralded huge job losses for workers and worse economic conditions for domestic workers who have unwillingly been forced into competition with apparel producers in the developing world.

To be sure, globalization has also worsened conditions for the apparel industry as

their falling profit margins have demonstrated. As the demise of protectionism became apparent, and industry adjusted by moving many of its factories overseas, those remaining in the U.S. and employing domestic workers, responded in kind by cutting costs wherever possible. The apparel industry's relative success in this endeavor was shown to us, as we learned that apparel profits did not decline in proportion to what the industry was earning (i.e. what workers were producing). Likewise, the increase in economic exploitation demonstrated the resilience of industry in adjusting costs to reduce profit loss, while highlighting the increasing economic vulnerability of apparel workers as their numbers and strength decreased.

The more complicated nature of this study's analysis has been evaluating the "report card" of state regulation in the apparel industry. Clearly compared to over a century ago (when there was no nationally-based wage, safety, or health legislation, nor were there inspectors to enforce standards or regulations), apparel workers overall fare better today than they did then. The Wage and Hour Division collects at least a few (sometimes several) million dollars each year on behalf of apparel workers. And OSHA, for its part, conducts several hundred inspections in the apparel industry each year, in addition to its standard setting, outreach, education and training, compliance and other partnership-based programs.

In the final analysis however, what we have are modest attempts by the State to protect apparel workers through the limited regulatory efforts of OSHA and WHD. As demonstrated repeatedly throughout this dissertation, neither are adequately funded or staffed, and OSHA in particular, has increasingly grown more industry-friendly over the years. Quite simply, the impact of WHD and OSHA is much less than what it ought to be

(and could be) if worker compensation, safety, and health were a national priority, and if policymaking and enforcement were not so closely wedded to corporate interests.

Overcoming Obstacles: What Ought to be Done

There are several steps that the apparel industry, the State, unions, workers, and consumers can do to improve the health, safety, and economic conditions of apparel workers. Firstly, if the apparel industry wishes to shed itself of its sweatshop image, it must be willing to work cooperatively with workers, unions, and NGOs in formulating corporate codes of conduct that support all of the International Labor Standards, including: (1) freedom of association and right to organize; (2) right to bargain collectively; (3) right to strike; (4) prohibition of forced labor; (5) protection of children; (6) equal pay for women and men for comparable work; (7) prevention of occupational injuries and illnesses; (8) minimum standards in wages and overtime; and (9) non-discrimination in hiring, work assignments, and promotions (IRRC 1998).

At present, the relatively small number of retailers and manufacturers that do participate in cooperative-based programs like the Apparel Industry Partnership (AIP), have largely created a public relations guise where benefits to apparel workers remain limited. For example, according to Howard (1999), the AIP contains no provisions for a living wage; contains monitors selected, controlled, and paid by the companies themselves; and limits public information on company performance through several layers of corporate control.

Each of these practices helps to disguise the working conditions inside the apparel industry. As Howard (1997: 165) makes clear, “the first and indispensable order of

business is to make the system visible and keep it in the public eye.” More specifically, companies must be compelled to publicly disclose the treatment and pay of workers, and how and where the products were made. To avoid self-serving report cards and conflicts of interests, companies must be willing to allow credible independent monitors who are able to communicate with workers, inside the manufacturing and contracting shops that sew their labels. Lastly, any violations discovered through independent monitoring must be corrected in a manner that safeguards workers and their jobs (Howard 1997).

Until workers control the production process, it is the primary responsibility of large corporations that drive the production process to take responsibility for labor standards in the same manner that they are responsible for quality, price, and delivery schedules (ibid. 1997). Globally, it is imperative for corporations to explain to governments that foreign direct investment and business in their countries will only be conducted with effective workers’ rights and protections in place.

Such goals of course can only be realized when companies no longer exploit the “comparative advantage” offered by poor nations’ lesser labor costs. As we were recently reminded by the 2005 G8 Summit in Edinburgh, Scotland, debt forgiveness is one vital tool in helping to provide impoverished nations’ with more viable economic options for their citizens, and for their futures. Such an investment is a crucial first step toward ending the forced-dependency that the wealthiest and most powerful countries in the world have inflicted upon the poorest and most powerless.

In addition to debt forgiveness, our international trade organizations, namely NAFTA and the WTO, must begin to require that the national labor laws of its participants adopt the core standards set forth by the International Labor Organization.

The U.S., most egregious of all Western industrialized nations, has adopted the fewest of the ILO resolutions (IRRC 1998). In adopting only two of the major conventions of the Declaration of Fundamental Principles and Rights at Work, the U.S. has signaled to the world, that it does not want to commit globally to what it cannot enforce domestically (ibid. 1998).

In the apparel industry, the U.S. can begin to reverse this abysmal labor record by passing federal legislation that holds retailers and manufacturers financially liable for law violations that occur in either legal or illegal contracting shops (Bonacich and Appelbaum 2000). As recalled from chapter one, to date, only New York holds manufacturers or subcontractors jointly liable for labor law violations. Retailers are not presently covered under joint liability legislation.

Another piece of apparel-related legislation adopted by New York, called “Hot Goods,” provides that any garment retailer, manufacturer, or contractor who ships, delivers or sells apparel is violating the state labor law if that company knew or should have known that the goods were produced by workers who were underpaid. Given the high mobility of the apparel industry, and the transnational scope of its shipment and sales, “Hot Goods” legislation at a minimum needs to be federalized. As discussed above, the more far reaching the legislation, the more effective it will be in protecting the greatest number of apparel workers.

If our patchwork of U.S. labor laws are ever to become nationalized, it will require the same type of information sharing by federal and state agencies, as is now required of our criminal law enforcement agencies. Intra- and inter-agency information sharing is vital in any effort to understand the full scope of labor problems that apparel

workers face. As discussed earlier in this study, the present lack of information sharing between key organizations like OSHA, WHD, DOJ, and even the IRS, has been a loss for workers. The more holistically the problem of apparel sweatshops is tackled, the greater the understanding that each will have in finding new solutions to work cooperatively in fighting this national scourge.

In addition to widening the scope of labor legislation and enforcement, and providing greater financial resources to fund these objectives, much work remains to be done in improving the safety and health of domestic apparel workers. To begin, the OSH Act, without reservation needs amending. As Charles Noble (1997:67) maintains in changing OSHA's regulatory strategy, at a minimum this includes:

the establishment of worker safety and health committees that enable workers to partake in enforcement at the point of production; the building of public decision-making mechanisms that limit the ability of regulated industries to block, delay, or dilute standard setting and enforcement; and [ultimately], the building of economic institutions that free public officials from their structural dependence on private firms by promoting social control of investment and technological change.

According to Noble (1997), at present, the OSH Act does not mandate worker-controlled, in-plant health and safety committees that allow workers access to company data. Moreover, the Act does not provide for incentives for workers who participate in inspections. Lastly, the Act does not safeguard a workers' right to refuse dangerous or harmful work (ibid. 1997). This is particularly important when one considers that workers are often unaware of the dangers that they are exposed to, and that the present regulation of toxic chemicals covers only a fraction of harmful substances that are in commercial use in American workplaces.

Another critical area that desperately needs improvement is the manner in which occupational injury and illness data are collected and recorded. As Leigh et al. (2004) note, ASOII summarily excludes 20% of the U.S. workforce from its survey data. In the apparel industry, where many homeworkers are employed, the DOL does not even know how many of these workers exist, much less estimate how many are injured or fall ill each year on the job. In Leigh et al.(2000) *Cost of Occupational Injuries and Illnesses*, using capture recapture methodology common to epidemiological research, the authors estimated that the BLS's ASOII misses roughly 53% of job related injuries. In the same study, the authors found that apparel production workers were among those at greatest risk for carpal tunnel syndrome. In a 2004 study by Leigh et al., the authors, again using capture recapture methodology, found that the BLS's ASOII missed between 33% and 69% of all injuries and illnesses, due to OSHA's failure to count government workers and the self-employed, and because of large estimates of underreporting.

As such, occupational medicine scholars and even governmental agencies like NIOSH have called for improving the tracking of occupational injuries and illnesses among low wage and immigrant populations (Harrison yr) and advocate creating a stronger surveillance of special populations, temporary workers, and contingent workers (Azaroff 2002). More broadly, occupational medicine physician Ken Rosenman (year) following his Michigan study that found that between 61%-68% of injuries and illnesses were not recorded in the BLS annual survey recommended the following: (1) a more comprehensive national based system that regularly includes multiple databases and does not rely solely upon employers submitting their OSHA (injury/illness) logs and (2) the creation of a census approach like the one used by BLS to track fatal occupational

injuries. Like Leigh et al. (2000) understandably (and understatedly) contest, future researcher should not have to investigate the more than 20 sources of primary data and 30 sources of secondary data that the authors were forced to investigate because of the absence of a comprehensive, national-based occupational injury and illness surveillance system.

With respect to creating a new enforcement strategy for OSHA, Weil (1997) argues that it is vital for the agency to conduct a “sufficient number of inspections.” This is crucial not only for the purpose of *directly* enforcing regulatory standards, but also for the purpose of creating a deterrent effect by the “threat” of inspections to all firms. Unfortunately, with more workplaces to inspect, and more workers to protect, the fact that the overall number of CSHOs has decreased, negates any potential deterrent effect that might otherwise be of value. Lastly, since small, non-unionized shops (like what is commonly found in apparel) receive the least number of inspections, the true nature of the industry’s work conditions can be hidden. As such, like WHD above, OSHA must be sufficiently funded so that its policies and enforcement efforts are inclusive of all of its workers. Related to this, increasing the number and amount of financial penalties assessed in the apparel industry is an important enforcement tool, which can be targeted against the many small, non-union firms, that in the opinion of Leigh et al. (2000) and others, are often treated more leniently compared to larger firms. Leigh et al (2000) also recommend levying an industrial tax to offset the cost of occupational injuries and illnesses. In the apparel industry, an MSD and/or CTS tax could be levied to cover the costs to workers who are afflicted by musculoskeletal disorders and carpal tunnel syndrome, respectively.

Beyond the efforts of OSHA, more must be done to help workers receive timely and accurate information as to the hazards of their jobs (Leigh et al. 2000) as well as the diagnoses and treatment, when suffering from occupational illnesses. If industry, employees, and the medical field are essential for identifying and preventing industrial hazards (as OSHA suggests), State agencies must assist this effort by working more closely with medical schools in helping them update their research and teaching curriculum. Moreover, economic and other structural incentives must be provided to encourage greater specialization in this vital form of public medicine. At a minimum, patient workplace history could become a standard in all medical record keeping. Without this vital information, physicians (and their patients) will be at a distinct disadvantage in recognizing, diagnosing, and treating occupational diseases and illnesses.

Beyond the above structural and organizational considerations, the cultural climate in medicine also needs to be addressed. Physicians are commonly resistant to the idea that their “patient” knows more about work hazards than they do. Mainstream medical training in America is built on the premise that physicians are scientific practitioners of medicine and that patients are laypeople who are only allowed to receive care (Lax 1996). This bias not only encourages physicians to ignore potential occupationally-based health problems reported by their patients, but may also deprive patients of their right to workers’ compensation when environmental job hazards are causing their illnesses (ibid. 1996).

For now, the goal of physicians serving as integral partners in occupational illness prevention remains largely unfulfilled. At the very least, addressing the problem of under-diagnosis and treatment will need to start with arming patients with their medical

histories, including their occupational histories, and will necessitate encouraging patients to inform physicians of their workplace conditions. For the limited number of unionized employees, collective bargaining can provide an important opportunity for sharing with health care professionals harms in the workplace; it can create a space for educating workers about occupational disease; it can provide medical outreach; and may even be able to influence the limitation of toxic environmental substances in the workplace (ibid. 1996). Of course, none of these changes will extend beyond piecemeal reforms if the corporatization of health care practices is not challenged in concert with industrial and State practices that harm American workers.

Future Research

This study has largely focused upon the intersections of corporate and state practices in creating and sustaining the global and domestic sweatshop. There are so many disciplinary areas within sweatshop studies that researching this topic can at times appear overwhelming and never ending. It need not be, as every contribution to the sweatshop literature is a building block from which others grow and learn, and hopefully can expand upon in turn. With this in mind, I will list a few areas of research that I feel may be most beneficial to my discipline: criminology.

An understudied area within criminology is occupational safety and health, which as we have just learned, is sadly understudied in the field of medicine, as well (Lax 1996). This dissertation, as well as many other studies, lays out the causal factors that give rise to the creation of hazardous and unhealthy work environments. But much less has been said about what factors motivate employers to not only comply with safety and

health laws, but also to advance the safety and health measures beyond what is required by law. In this analysis, it would be interesting to see how much compliance was related to fear of inspection, fear of additional regulation, recognition of greater long-term goals (i.e. ergonomic improvements=greater production output), public relations concerns, union pressures, etc. With a better understanding of what motivates these law abiders, we might be able to create more effective strategies for increasing the numbers of manufacturers, contractors, and subcontractors who provide safe and healthy work environments for their apparel workers.

Another possibility for future research is in the area of immigration and ethnic studies. As Jennifer Gordon (2005) reports in her book *Suburban Sweatshops*, today more than 100 new-style immigrant worker centers are thriving, by organizing along lines of ethnic identity and geographic location rather than factory or industry. As alternatives to traditional unions, it would be extremely beneficial to research how and what these work centers do differently and what their strengths and weaknesses are relative to traditional unions. What is exciting about the possibility of transcending industry boundaries is the ability to appreciate more readily the overlapping macro-cultural and structural barriers that workers of color, particularly immigrant workers, must overcome to receive a fair wage in a safe and healthy work environment.

Using the multidisciplinary approach of law and community organizing, Gordon (2005) has created a template for other scholars and activists to replicate in performing public interest research that hopefully will translate into more public interest policy making. As but one example, Gordon's organization "Workplace Project" helped convince politicians in New York that enforcing the payment of at least the minimum

wage, limited unfair competition for their private constituencies. Such blending of scholarship and activism led to the passage of New York's Unpaid Wages Prohibition Act, which today, remains the strongest wage enforcement law in the country.

Finally, readers interested in labor enforcement may consider replicating a 2004 study by the GAO which examined OSHA's oversight of its civil penalty determination and violation abatement processes. The study did not select a single industry, but rather examined its enforcement record on the whole. As far as I am aware, no study on OSHA has ever applied its enforcement record to the industry of apparel exclusively. What I frequently wondered as I labored on this dissertation was what factors most greatly influenced OSHA's decision making process in deciding whether to impose a penalty, and in deciding what type or types of penalties, if any, would be imposed. Fortunately, because OSHA publicly posts its enforcement record, researchers have access to a fairly large amount of inspection information using OSHA's Integrated Management Information System (IMIS). These data include: name of business; state of business; SIC to 4th Industrial breakdown (as well as NAICS data); union status; inspection type (i.e. complaint, planned, etc.); ownership type; safety vs. health inspection; advance notice; gravity type; hazard category; number of instances; number of persons effected/exposed; standard violated; stage of violation; stage of penalty; type of penalty; contest (vs. acceptance) of penalty; and final order (informal vs. formal settlement).

The above research has the potential to inform policy makers about what factors make OSHA's enforcement efforts effective and ineffective, and can provide a reliability measure in determining what industries are most/least hazardous, what industries are most/least likely to be inspected, which businesses are recidivists, what types of penalties

they receive, how often these penalties are reduced or dropped, and how many are referred for criminal prosecution. Undoubtedly, such information could be very useful in providing policy makers the data that they need to increase budgets, target resources, and increase enforcement efforts and penalties for labor law violators.

It is my sincere hope that this study will encourage future research into the many yet unexplored areas of sweatshop studies, and that the sweatshop, whether applied to apparel or any other industry, will one day be abolished forever, as workers, activists, and all those dedicated to cause of social justice join together and UNITE.

Endnotes

1. Industrial homework refers to garment production that is completed inside of the worker's residence. Illegal in the United States, industrial homework is characterized by the flexibility it provides contractors and subcontractors in terms of the time, money, and space saved by employing this category of workers outside of the factory or garment shop. Homeworkers are almost always undocumented immigrant women, and are the lowest paid and most exploited employees on the apparel production chain. Commonly, homeworkers must purchase their own supplies (sewing machine, garment scissors, the "foot", a device used to guide the stitching channel on a sewing machine, and "folders", a machine used to fold jeans and other heavy fabrics). This of course, drastically depletes the homeworkers already meager wages (Bender and Green wald 2003; and Bonacich and Appelbaum 2000).

2. The El Monte compound was just one unit of a "slaveshop" operating in various locations in downtown Los Angeles, but sharing the same ownership, control, coordination, and assets of its garment contracting business. In addition to the seventy-two Thai workers, dozens of Latina and Latino workers were also subject to many of the same working conditions, and thus joined the El Monte suit.

3. Textile production involves spinning yarn from natural or man-made fibers and weaving or knitting fabrics for clothing, furnishings, or industrial uses (Rosen 2002). Apparel production incorporates marking and cutting patterns and sewing clothes from textiles.

4. For example, sewing as a profession was originally conceived of as men's work, and the sewing machine was deemed a man's tool. Today, most sewing in the U.S. apparel industry is performed by women, and is perceived as "women's technology". As Green (1996:422) points out, a careful historical study of the global garment trade reveals that "women and men in the garment workforce has varied over time by craft, specialty, geographic area, and nationality."

5. The Triangle Shirtwaist Factory was home to one of the most deadly fires in New York City's history at that time, killing 146 garment workers, most of whom were immigrant girls in their early teens and twenties. The Factory was well known for its disparate and exploitive work and payment systems, low wages and long hours, employee mistreatment, and flagrant disregard for safety and health concerns.

On the night of the fire in 1911, workers in the factory were huddled over their sewing machines, surrounded by piles of highly flammable garments, when the fire ignited, and engulfed the top floors of the building. Unable to reach the floor where most of the workers were, firefighters tried in vain to extinguish the fire, as dozens of workers were burned alive at their workstations or were forced to leap to their death. Though the building inspectors had deemed the building fireproof, the factory was actually a firetrap, with a myriad of safety hazards including, barrels of combustible sewing machine oil, large pieces of garment rags surrounding the work area, wooden trim, window frame, and work station, blocked fire escapes, locked exit doors, and a previous history of small fires in the loft (Lieurance 2002).

Three days after the horrific event, the owners of the Triangle Shirtwaist Company, Max Blanck and Isaac Harris, were back in business at a new location. Upon inspection, the New York Building Department found that the new facility was not fireproof, and that one of the fire escape exits had already been blocked with two long rows of sewing machines. This fact proved tragically ironic; the owners were later prosecuted for manslaughter, but the all-male jury rendered a verdict of not guilty, largely because they could not agree as to whether the owners knew the exit doors were locked. In the end, Harris and Blanck settled twenty-three individual civil suits against them, paying damages of only seventy-five dollars to each victim's family. (ibid. 2002).

6. The earliest types of unions in the U.S., craft unions, organized workers employed in the same occupation or craft. Often referred to as "skilled labor", craft unions in the garment industry were first comprised by American born tailors who made custom made clothing for their mostly middle and upper-class patrons. In contrast, the industrial (also called trade) unions organized workers in a particular industry, regardless of craft. These workers more commonly represent "unskilled labor", although today the distinctions have much less significance (Lieurance 2002).

7. The CIO was formed in 1935 as a committee within the larger AFL, which formed in 1886. By 1938, the CIO (now known as the Congress for Industrial Organizations) split with the AFL largely over ideological and organizational differences regarding the composition of the workers it represented and the vision of the union itself. The AFL was more conservative, and tended to represent older, more established craft (skilled) unions. The CIO in its inception was much more radical; it had many socialists, a broader vision, and was more inclusive of women, immigrants, and people of color in

the less-skilled trade union sector. By 1955, the AFL and CIO merged into one federated union, with the more conservative “business union” leanings of the AFL winning out both organizationally, politically, and philosophically.

8. The U.S. never occupied South Korea and Taiwan as it did with Japan. Nevertheless, it did employ direct military intervention to thwart Communist incursions in both countries. Massive financial and economic support were also given to both countries’ national military defense and industrial revitalization efforts, as had been given by the U.S. to Hong Kong, Malaysia, Thailand, the Philippines, Indonesia, and Singapore (Rosen 2002). According to Appelbaum and Henderson (1992), these collective efforts led to the development and growth of export-led industrialization, which in turn provided the foundation for the globalization of the apparel industry in the U.S.

9. This protection would be extended further in 1974 through the Multifibre Arrangement (MFA), which in turn would be replaced by the Agreement on Textiles and Clothing (ATC), in 1995 (Rosen 2002). Included in ACT is the plan to phase out all protective apparel and textile quotas by 2005, in an effort to open new markets throughout the developing world, and to increase the savings of the low-wage obsessed apparel and textile industries.

10. The BLS Occupational Outlook Handbook lists the apparel industry as “apparel and other textile products”. Textile manufacturers, who turn raw material into fabric, are listed in a separate industry.

11. The Department of Labor's Bureau of Labor Statistics estimates in their 2003 "Occupational Employment Statistics" that there are 265, 200 sewing machine operators in the U.S. This survey does not include self-employed workers; it asks employers only to classify the occupational status of their workers. The "Current Population Survey" (CPS), conducted jointly by the Bureau of the Census and the Bureau of Labor Statistics does include self-employed workers. The CPS estimates that there are approximately 341,000 sewing machine operators. Because the CPS includes both self-employed and non self-employed sewing machine operators, I report this figure in the text. It should also be noted however that the CPS asks employees (rather than employers) to classify their occupational category.

12. In July 2004, UNITE (Union of Needletrades, Industrial and Textile Employees—formerly ILGWU and ACTWU) and HERE (Hotel Employees and Restaurant Employees International Union) merged to form UNITE HERE. According to the UNITE HERE website, the union presently represents 440, 000 active members, comprised largely of immigrant women and large percentages of African-American, Latina, and Asian-American workers. The new union represents the following major industry sectors: apparel and textile manufacturing, apparel distribution centers, and apparel retail; industrial laundries; hotels; casinos; foodservice; airport concessions; and restaurants (UNITE HERE 2004).

13. In 1996, Senators Ted Kennedy and Bill Clay introduced the "Stop Sweatshops Act," federal legislation that would hold manufacturers and some retailers jointly liable for labor law violations. The most recent status report in 1999 lists the Act as awaiting Congressional Subcommittee review. For updates on Act (and all Congressional

legislation), see: <http://thomas.loc.gov/>.

14. Saipan is the capital of the U.S. Commonwealth, Northern Mariana Islands. Garments assembled in Saipan are labeled “Made in the USA.” However, wages in the factories average about \$3.00 per hour---less than the U.S. minimum wage of \$5.15, and no over-time is paid for a work week that commonly extends to 70 hours. Most troubling, workers are often lured from their home country in impoverished places like China and the Philippines by recruiters who charge their recruits as much as \$4,000 with the promise of a good job in “America.” After arriving in Saipan, most garment and textile workers are forced to live in unsanitary, cramped barracks, where they sleep head to toe, and are prevented from leaving by armed soldiers, and barbed wire surrounding the barracks (Abad 2003; Stein 1999).

15. ESA Budget compiled from the Budget of U.S. Government. WHD data for 1993-1998 were compiled from the Wage and Hour Management Information System (WHMIS); data from 1999 were compiled from WHMIS and the current information system, Wage and Hour Investigator Support and Reporting Database (WHISARD). Data for 2000-2002 were entered by WHD using WHISARD.

16. The WHD Budget was compiled from the Budget of the U.S. Government. The number of WHD investigators was compiled from the WHD database, reprinted in the GAO Report *Child Labor* (2002). It should be noted that the correlation between the ESA and WHD budget is $(R) = .976$. Given the high correlation between the two budgets, it is not necessary to analyze these two independent variables separately upon the dependent variables of either WHD investigators or WHD cases.

17. See endnotes fifteen and sixteen for graph sources.

18. As per the measurement system of the Bureau of Labor Statistics, U.S. Department of Labor (DOL), during the calendar year; and 200,000 =base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year). Injury and illness rates were compiled from the BLS's annual survey *Occupational Injuries and Illnesses: Counts, Rates, and Characteristics*
19. For the purposes of the above graph, rate of apparel inspections was calculated as the number of OSHA apparel industry inspections/number of apparel industry workers x 100,000. Inspection rates were tabulated using the DOL's Occupational Safety and Health within Industry (SIC 23) data, from the Integrated Management Information System (IMIS). Graph 4a and 4b are shown separately as each has a different level of standardization that will not permit side by side comparison in a single graph.
20. OSHA Budget compiled from the Budget of the United States Government. Data compiled from the Occupational Employment Survey, Bureau of Labor Statistics, Labor Department.
21. Data compiled from economagic.com, data file 108, Apparel and Other Textile Products, nondurable goods, manufacturing, domestic, corporate profit after tax (millions)
22. Data compiled from economagic.com data file 164: Industrial Production Index: Apparel, NAICS=315, 1997=100, SA. Data compiled from economagic.com data file 164: Industrial Production Index: Apparel, NAICS=315, 1997=100, SA.

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