

# Labored Relations: Corporate Citizenship, Labor Unions, and Freedom of Association

Cedric E. Dawkins

California State Polytechnic University, Pomona

**ABSTRACT:** Globalization has brought increased attention to the notion that labor rights such as *freedom of association*—the right of workers to organize a union—are fundamental human rights. However, the vigorous opposition to freedom of association by US firms is largely ignored in the business ethics literature and exacerbated by compensatory corporate citizenship rating mechanisms that tend to mask labor rights deficiencies. I argue that because freedom of association is a hypernorm, instrumental to fully realizing basic human rights, labor rights and human rights are largely inseparable. Thus, respect for labor rights is a non-substitutable requisite of corporate citizenship. I conclude by providing examples of corporate labor relations strategies that respect freedom of association and business firms that are leading the way.

**KEY WORDS:** worker participation, labor rights, human rights, hypernorms, freedom of association, corporate citizenship ratings

**H**UMAN RIGHTS ARE BROADLY CONSTRUED as rights and freedoms to which all human beings are entitled such as life, liberty and security of person (United Nations, 1948). A number of international proclamations such as the UN Declaration on Human Rights, and the UN International Convention on Economic, Social and Cultural Rights call on business firms to support and respect basic human rights and make sure they are not complicit in human rights abuses. These proclamations include explicit references to labor rights and the rights of workers to organize and bargain collectively without corporate authorization or interference. In 1998 the International Labor Organization (ILO) adopted the *Declaration on Fundamental Principles and Rights at Work* that defined the core conventions of decent work. Among the four fundamental principles and rights at work are freedom of association and the effective recognition of the right to collective bargaining derived from ILO Conventions 87 and 98 respectively (ILO, 1998). Together these are known as the *Freedom of Association* (FOA) conventions and are *customary rules above the conventions* such that all ILO members are bound to respect them even if they have not been ratified in their respective countries (Human Rights Watch, 2010).

As global labor pools become more prevalent labor rights are garnering increased attention as human rights. Researchers (e.g., Gross & Compa, 2009; Wheeler, 2001) have noted that human rights advocacy groups have historically focused on heinous violations such as torture, human trafficking, and disappearances. This focus is as it should be, but given their proximity to human rights there is a growing recognition

that labor rights cannot be viewed solely as matters of political economy and domestic law and regulation, but also as matters of morality and humanity. Corporate citizenship—satisfying the economic, legal, ethical, and discretionary expectations that society has of business firms (Carroll, 1998)—certainly connotes a healthy regard for all human rights. As powerful public actors it is reasonable to expect businesses to respect basic civil, social, and political rights (Scherer & Palazzo, 2007; Wood & Logsdon, 2001), but what of their approach to labor rights?

Consistency—the absence of contradictions—has been called the hallmark of ethics (Velasquez, Claire, Shanks, & Meyer, 1988), but the FOA conventions are largely absent in corporate citizenship reports and discussions of business ethics. Leahy (2001: 33) reviewed *Business Ethics Quarterly*, the *Journal of Business Ethics*, multi-edition ethics textbooks, and university ethics conferences and documented “the virtual absence” of unions and union/management issues. I conducted an expanded EBSCO search for articles published since 2000 in the aforementioned journals and *Business & Society* with ‘labor union’ or ‘trade union’ in the title or abstract and found twenty-four articles, but only five focused directly on labor unions. Generally labor unions were addressed as part of the business environment or as a determined stakeholder. The implication is that respect for the FOA conventions is a peripheral issue and failure to respect, or strident opposition to, those conventions are not inconsistent characteristics of responsible business firms.

In what follows, I propose that labor rights are unduly marginalized in business ethics research and, because the FOA conventions are instrumental to human rights, they are hypernorms. Hence, as I will detail later, policies and actions that restrict workers’ freedom of association are inconsistent with a socially responsible firm. Part I demonstrates the reticence of US firms toward freedom of association and provides evidence of how corporate citizenship ratings mask that reticence. Part II posits that because labor rights are essential to human rights, opposition to labor rights is inconsistent with corporate citizenship. Part III argues that the FOA conventions carry the moral weight of hypernorms (Donaldson & Dunfee, 1999), and part IV illustrates positive approaches to freedom of association. Finally, part V discusses the implications of this paper and argues for a broader treatment of labor rights in business ethics research.

## I. LABORED RELATIONS

Workers’ rights to freedom of association can be exercised through nonunion community associations (Fine, 2006; Greer, 1996; Kolben, 2010a), but are almost exclusively exercised through labor unions. Despite their heterogeneity and operating under starkly different regulatory frameworks, labor unions are experiencing similar downturns in many OECD countries (Pencavel, 2005; Wallerstein & Western, 2000). In the US, for example, private sector union membership fell to 6.9 percent in 2010, the lowest rate in more than seventy years (Bureau of Labor Statistics, 2011a). The union downturn in OECD countries is concentrated in the private sector and derived from factors such as sharper international competition, labor migration, intense management opposition, an increase in service jobs, and higher unemploy-

ment rates (Lee, 2005; Visser, 2006), but the union presence in manufacturing still constitutes the backbone of bargaining power and wage setting.

Labor relations practices also vary widely in leading Eastern economies. The All China Federation of Trade Unions (ACFTU) is the official government-sanctioned trade union and operates primarily to encourage order and tranquility. Even non-violent efforts to establish independent trade unions are severely repressed in China (Josephs, 2003). On the other hand, Japan is characterized by harmonious company unions that make wage proposals each spring that help to determine national wage patterns. Few developing countries have strong labor movements and, although organized labor is largely viewed as an obstacle to labor markets, the World Bank has concluded that unions are more likely to improve than harm developing economies (Toke & Tzannatos, 2002). In view of the wide disparity in regulatory frameworks, the prominence of US multinational enterprises (MNEs), and its economic leadership in the world, this paper will focus on US labor practices.

### *US Firms and Freedom of Association*

The US government has been criticized in recent Human Rights Watch reports for espousing support for freedom of association in law but failing to provide the regulatory oversight needed to exercise that prerogative (Compa, 2000). Indeed, the US government has acknowledged to the ILO that there were circumstances wherein its industrial relations system failed to fully protect the rights of workers to organize and bargain collectively (Gross, 2003). Although the US is a member of the ILO, it has historically declined to ratify fundamental ILO conventions, and is among just seven countries to ratify two or fewer (ILO, 2010). Consistent with this reticence, US firms and legislators continue to resist pressure from the ILO and reject what they perceive to be outside interference in domestic affairs.

Section 7 of the National Labor Relations Act<sup>1</sup> (NLRA) stipulates that workers can 'form, join, or assist labor organizations' and 'engage in concerted activities' for their 'mutual aid and benefit,' and section 8 prohibits unfair labor practices, one of which is to restrict section 7 rights. Despite these protections, the Human Rights Watch report documents the precarious state of trade union rights in the US and widespread anti-union discrimination (Compa, 2000). Section 8(c) of the Taft-Hartley Act<sup>2</sup> provides for employer free speech through which employers are able fully inform their employees' choices regarding unionization. However, the opportunity for employers to intimidate workers in union organizing is so great that few developed countries outside of the US condone open opposition by employers in the process (Estlund, 2002). When workers in the US vote to form a labor union, it is not unusual for the unionized firm to simply shut down or relocate (Bronfenbrenner, 2001; Frontline, 2004), such that between 1999 and 2004 a first contract was achieved only 15 percent of the time (Ferguson, 2008). Moreover, US employers continue to stridently oppose freedom of association through court filings to reinterpret labor law and challenge its fairness (Kleiner, 2001).

Mehta and Theodore (2005) further illustrate the difficulties in an analysis of National Labor Relations Board (NLRB) data on election petitions filed by unions

in metropolitan Chicago in 2002. They found that 30 percent of the involved firms fired pro-union workers, 49 percent threatened to close a worksite if the union prevailed, and 51 percent coerced workers into opposing unions with bribery or favoritism. While the NLRA forbids employers to discharge workers for engaging in concerted activities, such as strikes, it also permits employers to *permanently replace* striking workers (Gould, 2004). Hence, a worker can be effectively terminated for exercising the right to strike. There are also structural problems in the union organizing process such as denying union representatives access to the workplace, and numerous delays in elections and rulings on unfair labor practices. Despite the fact the most American workers prefer collective means of workplace representation to approaching the employer individually (Freeman & Rogers, 2006), US labor law has become so ossified and ineffectual as a means of workplace protection that the ILO Committee on Freedom of Association has ruled that in several important respects US labor practices do not conform to international labor rights standards (Gross, 2009).

Perhaps anxieties about the FOA conventions could be expected by organizations such as Human Rights Watch and the ILO that are devoted to protecting workers, but other stakeholders are also taking notice. For example, an international coalition of institutional investors managing 757 billion US dollars sent a letter to the S&P 100 firms indicating “[t]he freedom to form or join a union of one’s choice or not, and to bargain collectively for the terms of one’s employment, are fundamental human rights that we as global investors recognize and respect” and asking those firms how they intend to protect and enhance labor rights for their US employees (Domini Social Investments, 2009). Social investors like these are an emerging power in stakeholder activism. In 2010, approximately 12 percent of the \$25.2 trillion under professional management in US firms was connected to socially responsible investing (Social Investment Forum, 2010).

#### *Compensatory Corporate Citizenship Ratings and Freedom of Association*

Despite concerns about the hostility of US firms toward freedom of association, the issue is rarely addressed in corporate citizenship ratings and perhaps the use of compensatory ratings is a contributing factor. Generally business ethics research employs ratings that are comprised of aggregated performance scores from different categories (e.g., Godfrey, Merrill, & Hansen, 2009; Mattingly & Berman, 2006). Summing individual category scores permits a higher score on any one category to offset a lower score on another. Conversely, a multiple hurdles or multiple cutoffs approach assumes that the categories are non-compensatory and thus a minimum level must be attained in each category to achieve a suitable rating. This ratings pitfall has been documented in the human resource management literature on selection and performance appraisal (Cascio, 1988).

The KLD ratings are widely used in corporate social responsibility (CSR) studies and 80 percent of the studies employ the compensatory ratings approach (Chen & Delmas, 2011; Waddock, 2003). When employing a compensatory approach with the KLD ratings there is no clear distinction between firms that respect the

Table 1: Labor Relations and KLD400 Ratings 2007–2009a

Exceptionally Fair Labor Relations		Notably Poor Labor Relations	
KLD400	Non-KLD400	KLD400	Non-KLD400
AT&T	Allegheny Technologies	Cummings	Altria
Costco	Allied Waste Industries	Federal Express	Apollo
Harley-Davidson	Ameren	General Growth Properties	Boston Properties
Heinz	American Capital Strategies	Kroger	Cintas
Liz Claiborne	America Electric Power, Inc.	McDonald's	Clear Channel
Norfolk Southern	Broadcom	Nike, Inc.	DuPont
Pepco Holdings, Inc.	Citigroup Inc.	Safeway	Eaton
Southwest Airlines	CSX Corporation	Supervalu	First Energy
Stanley Works	Dow Chemical	Verizon	Harrahs
UPS	DTE Energy	Whole Foods	International Flavors
	Goodyear		Interpublic
	ITT Corporation		Raytheon
	L-3 Communication		Reynolds American
	Marathon Oil		Starwood Hotels
	Marriott		Vornado Realty
	PG&E Corporation		Wal-Mart
	PPL Corporation		
	Public Serv Enterprise Group		
	Rockwell Collins		
	Sara Lee Corp		
	Valero Energy		
	Xcel Energy		

<sup>a</sup>During the 2007–2009 time period 236 S&P 500 firms were included in the KLD400 and 264 of S&P 500 firms were not included.

FOA conventions and those that do not. The KLD 400 Social Index (KLD400) is a benchmark grouping of firms designed to represent excellent corporate citizenship in their market sectors and the broader market (KLD Research & Analytics, 2010). KLD ratings address labor relations with two dichotomous items signifying strength and weakness (concern) respectively: (a) firm has taken *exceptional steps* to treat its unionized workforce fairly, and (b) firm has a history of *notably poor* union relations.

The exemplary firms (i.e., KLD400) could be expected to take exceptional steps to treat their unionized workforce fairly more frequently than other firms, but this was not the case. Table 1 contains KLD400 and non-KLD400 firms that received *exceptional fairness* and *notably poor* labor relations ratings. Although the S&P 500 was evenly split between KLD400 and other firms, non-KLD400 firms were twice as likely (nine percent to four percent) as KLD400 firms to take exceptional steps to treat their unionized workforces fairly. The percentage of *notably poor* labor relations ratings was relatively similar between the two groups; four percent of KLD400 firms and six percent of non-KLD400 firms had notably poor union relations. As stated previously, the KLD400 index is diverse in terms of industry coverage, which precludes the likelihood of non-KLD firms simply having more union representation or being subject to a greater number of union organizing campaigns. Because freedom of association is a fundamental aspect of labor relations, this outcome demonstrates how compensatory corporate citizenship ratings can obscure firms' behavior regarding labor unions. This outcome also raises normative questions about the centrality of labor rights in corporate citizenship that I will address by placing freedom of association in the context of human rights and ethics.

## II. HUMAN RIGHTS, CORPORATE CITIZENSHIP, AND LABOR RIGHTS

### *Human Rights and Labor Rights*

As opposed to legal rights, moral rights are not earned or contingent upon the laws, customs, or beliefs of a particular society, but possessed on the basis of humanity (Finnis, 1980). Thus, moral rights are necessarily universal, whereas legal rights can be culturally and politically relative (Tuck, 1979). Human rights are basic moral guarantees that people in all countries and cultures have simply on account of their humanity. James Nickel (1987) states that calling these guarantees *rights* suggests that they attach to individuals who can invoke them, that they are of high priority, and that compliance with them is mandatory rather than discretionary. He also describes human rights as independent in the sense that they exist and are available as standards of justification and criticism whether or not they are recognized and implemented by the legal system of a country.

Labor rights are the sub-set of human rights that are confined to human experience within the context of employment. Adopted in 1948, the Universal Declaration of Human Rights, states in article 4 that a worker has "the right to form and join labor unions for the protection of his [*sic*] interests" (United Nations, 1948). That principle is reaffirmed in the UN International Covenant on Economic, Social and Cultural Rights, the UN Global Compact Principle 3 and the ILO Declaration on Fundamental Principles and Rights at Work. Similarly, the European Union's fourth Lome Convention states, "Human rights are universal, indivisible, and interdependent. . . . Whether civil and political or economic, social and cultural in nature, they must be respected and promoted in their entirety" (Lome Convention, 1995: 4). If labor rights and human rights are interdependent, it follows that disrespect for labor rights is inconsistent with respect for human rights and business firms and governments contradict the broad human rights consensus by restricting the right of association.

Labor rights are instrumental to human rights because they are the means through which human rights are obtained. Social psychologist Milton Rokeach (1973) developed a classification system of values consisting of terminal and instrumental sets of values. Terminal values refer to desirable end-states of existence, while instrumental values refer to preferable modes of behavior or means of achieving the terminal values. Extrapolating from the Rokeach values framework, human rights are terminal values in that they represent desirable end-states, whereas labor rights are instrumental, preferable because they support terminal values. Even as human beings are born free and equal in dignity and rights, their capacity to experience that freedom and dignity depends largely on the economic value that they can produce. In a market-based global economy where agrarian lifestyles are increasingly rare, every person must have a means of acquiring the necessities of life and that is likely to require contact with an employer. Indeed, the premise of the ILO's fundamental labor conventions is that their presence "enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential" (ILO, 1998). Espousing human rights without means for achieving them connotes a *bricks without straw* insensitivity for the socio-economic realities many people face.

As a practical matter, because adults spend so much of their waking lives at work, the lack of freedom in work life translates to restrictions in other areas of life. This duality between workers as 'factors of production' and their human condition provides the moral premise for protection from the impersonal outcomes of the free market (Barbash, 1991). Having a voice in the terms of employment expands liberty, and security of person is enhanced when workers do not have to choose between dangerous work conditions and economic destitution. More broadly, Gross (2002) states that a full life requires the kind of participation in the political, economic, and social life of the human community that enables people to influence the decisions that affect their lives. A song from US labor history vividly captures the impact of work on the most basic human rights—life, liberty, and security of person:

We mean to make things over, we are tired of toil for naught,  
With bare enough to live upon, and ne'er an hour for thought,  
We want to feel the sunshine, and we want to smell the flowers,  
We are sure that God has will'd it, and we mean to have eight hours.  
Eight hours for work, eight hours for rest, eight hours for what we will!<sup>3</sup>

The vast majority of workers find themselves in positions of unequal bargaining power with their employers and hence labor rights are also vital to assuring self-determination and dignity in a setting where they are likely to be at risk. The ILO Committee on Freedom of Association cited the superior bargaining power of employers as one of the reasons why member States must encourage collective bargaining (ILO, 1994). Likewise, the US NLRA was designed with the hope that protecting workers rights to association would equalize power and make for labor peace (Barry, 2007). Information asymmetries, mobility costs, liquidity restraints, and international competition all make it difficult for the individual employee to achieve optimal outcomes in labor markets (Addison & Hirsch, 1997; Kaufman, 1997). When workers bargain individually with their employers they lose the capacity to pool their productivity, spread the risk of disagreement with management, and impose efficiency costs on the firm. As a result they must generally set aside any misgivings and take employment when it is available.

Strategic or 'enlightened' human resource management practices such as incentive compensation, promotions from within, employee participation, training, and greater job autonomy are purported to align workers' interests with those of the firm. On this basis, some managers have argued that collective bargaining is redundant and disrupts management attempts to produce favorable outcomes for all concerned (Fiorito, 2001; Folger & Cropanzano, 1998; Hammer, 2000). There are, however, substantial shortcomings with this remedy. For example, the prerogative to implement these programs, the degree to which they constitute advancement in worker conditions, and the length of their implementation rests with management. Also, conflicts born of the mutually exclusive interests of workers and employers have fueled labor unrest throughout the modern era (Friedman, Hunter, & Chen, 2008), and continue today. Wal-Mart has agreed to pay up to \$86 million to settle a wage and hour class-action lawsuit involving thousands of former workers in California alone (Reuters, 2010). The presence of well-meaning firms does not level the play-

ing field for individual workers because market forces present persistent conflicts of interest regarding marginal wage levels and working conditions that encourage firms to act opportunistically.

There is also substantial empirical evidence indicating that workers achieve better employment outcomes through collective activity. In 2008 and 2010, the labor union healthcare coverage and wage premiums in the US were 27 percent and 24 percent, respectively (Bureau of Labor Statistics, 2009, 2011b). In Japan joint consultation committees and grievance procedures are more commonly found in union workplaces. Similarly, Australian workers are more likely to have grievance and equal employment procedures, and consultative and safety committee representatives in unionized workplaces (Verma, 2007). Collective activity provides workers the means to protect their interests rather than depend on free market forces or the goodwill of their employers to do so. Self-determination and dignity in the workplace are more readily protected collectively than individually. To that end Human Rights Watch, although it arduously avoids promoting unionization, views labor unions as "vital components of societies where human rights are respected" (Compa, 2000: 10).

#### *Corporate Citizenship and Freedom of Association*

Sethi (1975: 62) stated "social responsibility implies bringing corporate behavior up to a level where it is congruent with the prevailing social norms, values, and expectations." Because the employment relationship is so intimately connected to morality and humanity, corporate citizenship must be consistent with core principles of human and labor rights. The ethical face of corporate citizenship requires that firms embody standards, norms or expectations that respect what is broadly regarded as fair, just, or in keeping with the respect or protection of stakeholders' moral rights or legitimate expectations, even though they are not codified into law (Schwartz & Carroll, 2003). Essentially, the employment relation is ethical if it produces good consequences, and also reflects duty to humanity, and just distribution of benefits.

Budd (2004) observes that the laissez-faire competition model of the employment relationship is not *ethics free*, but rather a combination of utilitarian and libertarian ethics. Standard economic theory indicates that the greatest net benefit is achieved through competitive markets and profit-maximizing behavior, while libertarian ethics emphasize individual freedom and strong property rights. Utility is important, particularly as the world population approaches seven billion, but tends to result in a marketplace where only those with sufficient financial resources are heard. For example, the apparel industry produces clothing that many people find appealing, but employed a profit and price structure supported by abusive working conditions and exploitive wages (Lamb, 1999). Employers are free to lawfully operate an enterprise and the poor and unskilled workers are (generally) free to exit the circumstance by quitting. However, the choice between deplorable work conditions or economic destitution does not constitute real freedom or liberty. It also does not necessarily follow that the property rights of business owners supersede the rights of individuals to form organizations to represent their economic interests.



Unless we are indifferent to the struggles of those at the bottom of the pyramid, it is difficult to embrace utility and individual liberty as sufficient ethics for the employment relationship. To be sure, utilitarian market principles have led to better quality of life in much of the world (i.e., disease eradication), and can potentially provide wide avenues out of poverty. According to Davis and Blomstrom's (1971: 95) iron law of social responsibility, 'in the long run firms that do not use their power responsibly will tend to lose it,' but contemplate the implications of *the long run* for sweatshop workers. Producing sweatshop apparel has become less profitable because consumers have taken a deontological position; the means of production matters. Only after being assailed for inhumane conditions and unjust wages, did the apparel industry introduce new labor standards and independent monitoring of their labor supply chains (Shamdasani, 2001). Therefore, the favorable social consequences wrought by utility are in fact derived from deontological evaluations of the terms of employment and distribution of benefits.

Bowie (2002) presents a Kantian perspective of the business firm as a moral community centered on the principle of respect. The terms of employment should not objectify workers in that they are always to be treated as ends and never as means. The principle of respect further entails the positive obligation to provide meaningful work. Positive obligations specify duties but provide leeway in determining how they are accomplished. Bowie suggests that meaningful work is characterized by: (a) respect for autonomy, (b) an adequate wage, and (c) foregoing paternalism. Autonomy is recognized through democratic mechanisms that permit all involved parties to have a voice in workplace governance. Duties for autonomy and adequate wage imply that actions such as firing or intimidating union workers solely to benefit the firm (i.e., motivated only by egoism) treat workers as means, and are unethical. Also, paternalism with respect to adults is ethically fraught because the capacity for independent reason is the source of human dignity. A policy that supplants workers' ability to reason with managers' ability to reason on their behalf is an affront to workers' moral and rational capacity. Hence, suppressing workers' freedom to form unions and bargain collectively is inconsistent with Kantian ethics.

While a doctrinaire application of Kantian ethics tends to discount act-based consequences, there are sound reasons for deontological analysis to accompany, not replace, the utilitarian assessment of outcomes. First, a moral workplace community calls for participative and democratic processes that respect all interested parties, including shareholders (Evan & Freeman, 1993). In addition, virtually all corporate actions are at least partially motivated by the profit motive, and thus even the best actions of corporations (e.g., generous benefits, sustainable practices, philanthropy) would lack an ethical basis (Bowie, 2005). Finally, business firms have a contractual obligation to represent shareholders for whom utility is very important.

One of the foremost challenges of workplace democracy is allocating distributive (i.e., zero-sum) benefits. Rawls (1971) argues that justice is characterized by a distribution of outcomes that provides each person an equal right to basic social and economic liberties. The benefit of the doubt in determining the distribution of liberties accrues to the least powerful within the community. If one includes self-determination in the cluster of basic social and economic liberties, individual

workers, being the least powerful, should have the opportunity to jointly influence the distribution of economic benefits they helped to create.

In sum, an ethical employment relationship recognizes the legitimacy of beneficial outcomes, dignified work, and just distribution of benefits. Utility and liberty provide vast benefits in the scope and scale of employment and productivity, but also produce negative externalities. If, as proposed here, dignity and just distribution of benefits are indispensable prerogatives of an ethical employment relationship as well, then it is unethical to resist workers reasonable attempts to obtain those prerogatives. Freedom of association provides a measure of self-determination in the workplace and enables a competition of relative equals in the distribution of benefits. Because suppressing freedom of association unduly subordinates respect for persons and just means of distributing benefits to profit maximization it is antithetical to corporate citizenship.

### III. THE FREEDOM OF ASSOCIATION CONVENTIONS AS HYPERNORMS

The need to reconcile the tensions between varying approaches to ethical behavior in global supply networks has resulted in a number of actions such as the use of hypernorms. Donaldson and Dunfee (1999) identify hypernorms, universally binding moral precepts so fundamental to human existence that they are found in a convergence of religious, political, and philosophical thought, as means to identify and order norms for global application. They differ from culturally relative (i.e. moral free space) norms wherein it is appropriate for national communities to define significant aspects of their business morality that do not conflict with hypernorms. I propose the FOA conventions as hypernorms because capacity for self-determination is the most basic, non-substitutable worker right. For example, labor standards (i.e. minimum wage, breaks) can be collectively bargained—and are often the codification of previously negotiated provisions—but what prerogative can be provided to workers that makes the capacity for collective action redundant? The FOA conventions are also consistent with Donaldson and Dunfee's designation of voice, that each person has the capacity to participate in discussions about their interests, as a hypernorm.

Because, however, hypernorms require the convergence of religious, cultural, and philosophical thought, I followed Hartman, Shaw, and Stevenson (2003) in reviewing the reports, declarations, and standards disseminated by prominent international organizations and NGOs, religious groups, and global business organizations for statements regarding freedom of association. I also reviewed the OECD code of conduct for MNEs to represent an independent compliance mechanism. MNEs have employed independent codes of conduct with varying levels of monitoring and accountability (Mamic, 2004). Proponents assert that private codes are responses to the inability of developing countries to adequately enforce labor laws (Bartley, 2005; Locke, Kochan, Romis, & Qin, 2007; Raustiala, 2005). Critics, however, have argued that codes are public relations tools that displace workers through government and union intervention, and lack credible monitoring (Esbenshade, 2004; O'Rourke, 2003).

Table 2: Freedom of Association as a Hypernorm

Type	Organization
International Organizations	UN Declaration on Human Rights <sup>9</sup> ILO Covenants <sup>10</sup> OECD Guidelines for Multinational Enterprises <sup>11</sup> Arab Labor Organization <sup>12</sup> Group of Twenty (G-20) Finance Ministers and Central Bank Governors <sup>13</sup>
International NGOs	Social Accountability 8000 <sup>14</sup> Human Rights Watch <sup>15</sup> Ethical Trading Initiative <sup>16</sup> International Labor Rights Forum <sup>17</sup>
Non-Western NGOs	Society for Labor and Development (India) <sup>18</sup> Asian Human Rights Commission <sup>19</sup> Escuela Nacional Sindical <sup>20</sup> Human Rights in China <sup>21</sup>
Business & Industry	US Apparel Industry Partnership <sup>22</sup> Business Leaders Initiative on Human Rights <sup>23</sup> International Organization of Employers <sup>24</sup>
Churches & Religious Groups	The Catholic Church <sup>25, 26</sup> World Council of Churches <sup>27</sup> The United Church of Christ <sup>28</sup> Bench-Marks <sup>29</sup>
Investment groups <sup>8</sup>	Domini Social Investments LLC Local Authority Pension Fund Forum Calvert Asset Management, Inc.
National Laws	Sec. 502(a) US Trade Act of 1974 The National Labor Relations Act, Section 7 & 8 European Union Charter, Article 12 Japan Trade Union Law, Article 14 <sup>30</sup>

To avoid ethical imperialism, I also examined perspectives from emerging economies and non-Western countries. Among emerging economies there is concern about the disingenuous inclusion of labor rights in trade agreements. India has not ratified the FOA conventions and leads a number of emerging market countries in opposing labor rights in WTO provisions because of concerns about protectionism, political sovereignty, and neocolonialism (Kolben, 2010b). Confucianism influences the political, social, and economic systems in far-east Asian societies, but diverges from Western business ethics in its greater emphasis on loyalty, respect for authority and harmony, and is more opaque regarding collective activity (Chan, Tong-Qing, Redman, & Snape, 2006). China's labor rights record is quite poor, but this cannot be attributed to cultural inconsistencies because recently enacted legal provisions that would be consistent with some ILO prescriptions are simply ignored (Foot, 2000; Josephs, 2009). On the other hand, Japan was an original member of the ILO, ratified the FOA conventions, and was the first country to ratify the new occupational safety and health convention.

As shown in Table 2, there is a broad and relatively universal acknowledgement of the FOA conventions that support their designation as hypernorms that supersede the preferences of individual countries to the contrary. Although there is not unanimity on the FOA conventions as shown in outliers such as China, the lack of ratification in the US, and skepticism in some developing countries, unanimity is

not required to validate a hypernorm. Arguably, one purpose of hypernorms is to highlight violations and place normative pressure on the violators. The presence of outliers cannot be both the target of hypernorms, and an argument against the existence of hypernorms. Lastly, the convergence of support for the FOA conventions from organizations around the world includes organizations from the dissenting countries, which tends to offset their opposition.

#### IV. POSITIVE DEVIANTS: RESPECTING THE RIGHT OF ASSOCIATION

The term positive deviance is used to describe those whose uncommon behaviors or strategies enable them to find better solutions to a problem than their peers, despite having no special resources or knowledge (Sternin, Sternin, & Marsh, 1998). There are a number of positively deviant firms that respect freedom of association through vehicles such as international framework agreements, neutrality agreements, and labor-management accord. In each instance the approach is outside the sphere of government regulation and requires some degree of power sharing. The FOA conventions require firms to respect the right of workers to form labor unions, but do not require them to agree with the conventions or advocate the formation of labor unions.<sup>4</sup> Firms comply with the FOA conventions for many of the same reasons that they engage in other ethical practices: stakeholder pressure and reputation enhancement (van Tulder & Kolk, 2001), the threat of regulation (Esbenshade, 2001), competitive advantage (Waddock & Graves, 1997), improved union and stakeholder relations, access to skilled labor (Eaton & Kriesky, 2006; Egels-Zaden, 2009), and as a reflection of their values (Gelb & Strawser, 2001; Weaver, Treviño, & Cochran, 1999).

##### *International Framework Agreements*

An international framework agreement (IFA) is a pact between an MNE and the Global Union Federation of national unions that represents its employees, whereby the MNE commits to implement minimum standards regarding collective bargaining rights, equal opportunity, safety and health, minimum wage, and banning child and forced labor (Riisgaard, 2005). The first IFA was between the French food-processing firm Danone and the International Union of Food and Allied Workers' Associations in 1989. Currently there are more than sixty IFAs involving over 4.3 million workers, most of which were signed by firms headquartered in continental Europe and Scandinavia (International Association of Employers, 2007; International Metalworkers' Federation, 2006). Resistance to IFAs in the remainder of the world has been strong; there are only two American firms with IFAs and a single firm in the United Kingdom, Canada, and Japan respectively. IFAs are most prevalent in the service, energy, mining, and manufacturing sectors, and eight of the ten Global Union Federations have signed or cosigned an agreement (International Metalworkers' Federation, 2006).

When tensions arise under IFAs they often stem from perceived breaches of freedom of association and the right to bargain collectively (Egels-Zaden & Hyllman, 2007). For example, the International Federation of Building and Wood Workers resolved a complaint about organizing a construction site of Hochtief's US subsidiary

Turner Construction, under terms of the IFA with IG BAU, Hochtief's home-country (Germany) union. There are, however, challenges presented by IFAs. First, they can pose a threat to workers in developed economies because less developed economies have the advantage of lower labor costs, but when MNEs sign IFAs that reduces the likelihood of them seeking the least regulated markets (Stevis, 2010). Second, labor unions in developed economies are less able to use strict regulations as a means to keep jobs in their countries. Third, labor unions are leery of agreements to implement standards that are ultimately unenforceable (Justice, 2003), while MNEs are concerned that international standards confuse compliance with domestic laws and regulations (Müller, Platzer, & Rüb, 2010). Nevertheless, a number of firms have indicated that IFAs have improved their relationships with union employees (Egels-Zaden, 2009; International Association of Employers, 2007).

Chiquita Brands International is a global agriculture firm employing 23,000 people in eighty countries and concentrated in Latin America. During the late 1990s, Chiquita was concerned about negative media coverage regarding poor working conditions and negative environmental impacts in Central America, and labor union pressure regarding freedom of association and anti-union activities (Riisgaard, 2004). Consequently, Chiquita embarked on a path toward corporate citizenship that included Social Accountability 8000 certification, annual corporate citizenship reports, and an IFA with the International Union for Food Workers (IUF) and the Banana Workers' Unions (COLSIBA) signed in 2001. The Chiquita-IUF/COLSIBA pact was the first IFA in the agricultural sector and committed the parties to support the ILO core conventions, establish a formal steering committee that meets bi-annually, and avoid corporate campaigns and anti-union tactics. According to Chiquita, the IFA was adopted as part of a product differentiation strategy designed to improve public perception, defend market share, and reduce production costs through good labor relations (United Nations, 2010). Since the IFA was signed, there has been a marked reduction in strikes at Chiquita facilities in Latin America, and an increase in union membership (Oswald, 2008; Riisgaard, 2004).

### *Neutrality Agreements*

Neutrality agreements are legally binding pacts voluntarily negotiated by employers and union representatives whereby both parties agree to forego intimidating and coercive tactics.<sup>5</sup> According to Cohen (2000), under many neutrality agreements employers must remain more than *in neutral*, and one of the primary purposes of the neutrality agreement is to define the terms of 'neutrality' itself. The terms of the agreements vary in complexity and breadth. A basic neutrality agreement would typically include union access to employer facilities, contact information for employees (e.g., mailing address, phone number), and mutually acceptable forms of communicating with employees during the campaign. An extensive agreement curtails employer involvement to a greater degree and could include the following: no employer communication with employees regarding unionization, authorization card recognition, and extension of the neutrality agreement to other locations and subsidiaries. Labor unions also typically agree to follow specific procedures during

organizing campaigns and submit unresolved bargaining issues to interest arbitration, rather than striking (Eaton & Kriesky, 2001).

The premise for neutrality agreements is that, because so many countries either lack adequate FOA protections or the will to enforce them, the regulatory playing field tilts heavily toward management. When firms campaign against labor unions workers are intimidated, and this weighs heavily in their consideration of unionizing (Estlund, 2002; Freeman & Rogers, 2006). Even managers in some US firms have been ostracized because signing a neutrality agreement was viewed as a betrayal by their industry peers (Eaton & Kriesky, 2006). Consequently, although many firms are scrupulously legal in their union opposition, the tenor of labor relations poisons the landscape and gives workers good reason to be apprehensive. In view of these power dynamics, neutrality agreements provide the means for labor and management to negotiate terms under which the FOA conventions are respected.

Employers that oppose neutrality agreements often state that the agreements constitute management and union officials collaborating to impose unionization and subvert worker choice. They also contend that union elections conducted under neutrality agreements diminish the freedom of employees who vote against unionization and imposes dues upon them as well (Delaney, 2005). If, however, the certification process is conducted in a fair and democratic manner, workers that find themselves in a union they voted against will have not been disenfranchised any more than a citizen whose preferred candidate loses an election. Union leaders have, however, cautioned that if neutrality agreements are negotiated as part of broader partnerships with employers, they must be careful not to undermine rank and file democracy in union decision making (Stewart, 2006).

Harley-Davidson and Kaiser Permanente are examples of firms that maintain a cooperative relationship with their labor unions that includes neutrality in labor union elections. Partnership approaches of this nature are most likely to succeed when labor productivity plays a prominent role, the parties respect one another, and there is competitive pressure (Beaumont & Hunter, 2003). According to Stephen Weidman, the Director of Human Resources at Harley-Davidson, "[t]here are an awful lot of working people in the US who need protection, and they can look to unions, government, or attorneys. I have not found unions to be unreasonable, and they're better than government or lawyers" (Weidman, 2007). Given the global competition in manufacturing, Harley-Davidson and the United Auto Workers needed each other to survive. Kaiser Permanente and its unions also established a national bargaining agreement that includes a neutrality agreement and card check union elections at new locations (diCicco, 2007). Since implementing this agreement they have experienced higher patient satisfaction, lower costs, improved retention rates and greater job satisfaction (Kochan, Eaton, McKersie, & Adler, 2009). Neutrality agreements do not, however, create a conflict-free era of labor-management relations. In September 2010, Harley-Davidson demanded that the union accept job reductions and seasonal (temporary) workers in order to keep their jobs at the Wisconsin plants (Welsh, 2010).

*The Labor Accord*

The capital-labor accord evolved in the post-World War II era as an implicit contract between large firms and labor unions that characterized labor relations in the US through the 1970s. In the face of growing workplace unrest, management retained effective control over the organization of work, while workers gained the power to share in the productivity gains by bargaining collectively over wages and benefits. This period of detente provided relative workplace stability, and greater effort and productivity, but dissolved amid the inflation of the 1970s and increased international competition (Kochan, McKersie, & Chalykoff, 1986; Marglin & Schor, 1990). It is not, however, the structural particulars of the labor accord that are of interest here, but the underlying assumptions, the implicit rules of the game. Neither labor nor management considered the other as an existential threat. Labor unions that considered themselves as vehicles for fundamental societal change (e.g., Industrial Workers of the World) were marginalized in the labor movement. In the same way, managers regarded labor unions as a relatively fixed part of the business landscape and assented to labor's desire to take wages out of competition.

Southwest Airlines is at once the most heavily unionized firm in the US airline industry, with approximately 85 percent of its 34,000 employees in labor unions, and consistently one of the most profitable (Massachusetts Institute of Technology, 2011). Southwest has no neutrality agreement, but has historically neither supported nor opposed labor unions; in other words they have by virtue of their actions actually been neutral. The labor unions simply grew with the firm. They attribute their favorable labor relations primarily to valuing their employees and maintaining a positive employee culture. In the Southwest philosophy, it is important for employees to have a voice and the firm should be a partner, rather than an adversary, to any organization that represents their employees (Harris, 2008).

Southwest does not, however, simply give the unions whatever they want and there have been significant disagreements, but not existential confrontations. For example, Southwest was deadlocked with its flight attendants union for two years before reaching an agreement in 2004 (Maynard, 2004). Their tenets for addressing labor union disagreements are emblematic of their neutral posture: (a) avoid vilification and character assassination, (b) appreciate the value of loyal opposition, and (c) learn that management is not always right (Harris, 2008). Former Southwest CEO James Parker summarized the underlying philosophy in stating that he had never met a union leader who did not—at heart—want to improve the lives of union members, and because the management at Southwest had the same objective, they were able to work together.<sup>6</sup>

Another example is Costco, the leading warehouse retailer in the US. Whereas Costco neither supports nor opposes labor unions, the Teamsters represent 17 percent of its workers, but its primary rival Sam's Club (Wal-Mart) is staunchly non-union. The relatively low percentage of union workers at Costco (Greenhouse, 2005) contradicts the notion that if firms do not aggressively oppose unions, their employees will be duped and intimidated into voting for them. Chief Executive Jim Sinegal says Costco has a right to make more money, but not at the expense of

its employees, emphasizing that it is “just good business” to treat employees well (Frey, 2004). The neutral union strategy is consistent with treating employees well and generous wages and benefits. The impact on workers has been quite favorable. In 2008, Costco’s turnover rate was approximately 20 percent versus 50 percent at Wal-Mart (Featherstone, 2008), and revenue per square foot in 2009 was 39 percent higher than its rival Sam’s Club (Forbes, 2011).

### *Common Success Factors*

Chiquita Brands, Harley-Davidson, Kaiser Permanente, Southwest Airlines, and Costco have employed different approaches to respecting the FOA conventions and running a successful business, but they share some common factors. First, these companies demonstrate ethical performance by respecting the dignity and autonomy of their workers and producing favorable results for shareholders. As Bowie (1999) argues, pursuing shareholder wealth is different from maximizing shareholder wealth at the expense of other considerations. Leaders from Kaiser Permanente, Southwest and Costco make explicit statements to the effect that the utilitarian objective of profits does not supersede the deontological imperative to respect employees’ right of association.

Second, they have been willing to embrace the challenge of managing unionized workers during a time when they cannot simply pass higher labor costs on to consumers. Freedom of association adds another level of complexity to management strategy and decision making and it is even more difficult in industries where competitors resist unions. Consequently, there must be a deep-seated belief that employers can successfully partner with labor unions and reconcile worker and stockholder interests. Harley-Davidson and Kaiser Permanente, which fought through some very difficult times, ultimately determined that cooperative relationships with their labor unions was the best alternative available.

Third, these firms appear to understand the fundamental inconsistency of expecting labor unions to accept the validity of the firm’s mission to provide value to its shareholders without also accepting the validity of the unions’ mission to provide value to its members. There is reason to believe that labor relations are markedly improved when the parties are not operating under threat. The threat-rigidity hypothesis (Staw, Sandelands, & Dutton, 1981) proposes that external threat leads to restricted information processing and tighter control that, in turn, leads to cognitive rigidity—a tendency toward well-learned or dominant responses. Firms that aggressively oppose freedom of association bring about an adversarial relationship of low trust regardless of whether a union is successful in gaining certification.

Fourth, the approaches these firms take to labor rights align with their broad operating philosophy and strategy. For example, Chiquita’s labor relations are part of a differentiation strategy focused on better quality. Southwest embraces an employee first culture that would seem insincere amid consistent strife with their employees’ chosen representatives. Likewise, Wall Street analysts have complained that it’s better to be an employee than a shareholder at Costco because workers were paying just eight percent toward their healthcare benefits (Greenhouse, 2005).<sup>7</sup>



**Table 3: Labor Strategies and the Freedom of Association Hypernorms**

Inconsistent Practices		Consistent Practices		
Union Suppression	Union Evasion	Union Substitution	Labor Accord (Implicit Neutrality)	Neutrality Agreements and International Framework Agreements
Union busting (provoking strikes & replacing union workers) Refusal to bargain Surveillance Interrogation Discriminatory treatment Small-group/individual meetings Short-term improvement in wages and working conditions Threats and inducements	Refusal to bargain in good faith Filing for bankruptcy Captive audience meetings Relocating facilities targeted for union organizing Election delays Union is corrupt/racist/leftist	Positive human resource practices Company-sponsored employee organizations Forms of employee participation and involvement Above market pay and benefits Promote from within Attitude surveys	Except legitimacy of the other party No TIPS (threats, intimidation, promises, or spying) Neither support nor oppose unions	Basic Access to the employer's facilities Names and addresses of subject employees for organizing campaign Agreed upon communication during the campaign Extensive No communication regarding the union during the campaign Recognition on the basis of a simple majority of authorization cards Timely union elections Extending coverage of the neutrality agreement to affiliates/acquisitions

Each of these firms argues that their labor unions are more cooperative when they believe that management actually respects their union members. Finally, the firms are willing to demonstrate a degree of humility. At Southwest, they admit they do not have all of the answers, and at Harley-Davidson and Kaiser Permanente that they did not know of a better approach. These firms challenge the persistent notion of benevolent dictatorship—true benevolence belies dictatorship—by recognizing that workers are the best arbiters of their own interests.

#### *Corporate Labor Relations Strategies and the FOA Hypernorms*

The aforementioned firms have adopted labor relations strategies that comport with the FOA hypernorms. According to John Ruggie, Special Representative of the UN Secretary-General on Human Rights and Transnational Corporations, respecting a right means to do or to refrain from doing what the right prescribes or prohibits, and the corporate responsibility to respect all human rights exists independently of the duties of nation states (Ruggie, 2008). Hence, to assess compliance with the prescriptions and prohibitions of FOA hypernorms it is necessary to examine the prevalent union strategies and actions. As seen in Table 3, corporate union strate-

gies can be categorized as neutrality, substitution, labor accord (implicit neutrality), evasion, and suppression.

Neutrality agreements and IFAs are consistent with FOA hypernorms because they prevent business firms from influencing the decision making process. As shown by Chiquita, Harley, and Kaiser Permanente, firms and labor unions are able to negotiate unique terms for neutrality agreements that suit their preferences. Union substitution does not infringe on the FOA hypernorm as long as the management practices clearly pre-date any union-organizing attempt. Firms do not violate the FOA conventions by managing their employees so well that they decline the option to unionize. To conclude otherwise assumes that favorable treatment of employees is in fact pre-emptive anti-union activity rather than management that genuinely addresses employee interests. However, the introduction of positive HR practices during a union organizing campaign, or combining them with union evasion or suppression tactics is undue interference with the process and inconsistent with FOA hypernorms. The labor accord—exemplified by Southwest and Costco—is implicit or *de facto* neutrality and, as long as both parties assent to the arrangement, it is consistent with ROA hypernorms as well.

Despite the intimidating tenor of labor relations in the US, there is still occasion for employer opposition that is consistent with the FOA conventions. It is likely that a number of 'middle ground' US employers desire to oppose unionization without running afoul of FOA hypernorms. Companies that avail themselves of 'all legal means' in an environment of lax or willful regulatory neglect exploit a gap between law and ethical behavior that hypernorms are designed to eliminate. That is, remaining within the bounds of weak laws and lax enforcement does not constitute ethical behavior. Ethical opposition would, therefore, occur within the confines of a neutrality agreement or implicit neutrality (labor accord) that is acceptable to both parties. Neutrality permits disagreement but entails mutually acceptable provisions that protect the autonomy and self-determination of the involved parties. For example, Chiquita disavows character assassination in the neutrality agreement with its unions, but permits employer expression and dissent, such that neutrality essentially refers to fair play. In the case of implicit neutrality, such as with Southwest, the same prohibition against character assassination applies and is accepted by both parties. If, therefore, either labor or management believes that an intimidating environment exists for a union election, then the terms for the election should be explicitly stipulated in a neutrality agreement.

In view of the restraints elaborated above, evasion, as characterized in Table 3, is inconsistent with the FOA hypernorms because it entails the use of clever tactics to circumvent their prescriptions and prohibitions. Employing legal tactics that adhere to the letter of labor regulation while subverting its intent are duplicitous and thereby fail both deontological and consequential ethical standards. Were all, or even most, businesses to operate in a duplicitous manner, the result would be a quicksand of rules, contract clauses, and regulations. Illegal suppression of union organizing, such as unfair labor practices, that takes advantage of lax regulation and enforcement is illegitimate and clearly inconsistent with the FOA hypernorms. Thus, firms are in compliance with the FOA hypernorms when they negotiate a

neutrality agreement, execute policies that eliminate workers' desire for collective bargaining, or address unionization efforts in a manner that they and potential union members judge to be acceptable.

## V. DISCUSSION

Labor relations occupies the fringes of ethics and CSR discourse, but establishing the FOA conventions as hypernorms highlights the importance of greater accountability in this area. As Delaney (2005: 203) states, "the general devotion to capitalism has served both to discourage reflection on the equity of market-generated outcomes and to treat as heretical ethical questions raised about the economic system." The result is an implicit endorsement of the market as arbiter, and ethical inconsistencies such as firms simultaneously espousing employee participation and firing employees who support unions. Whether enlightened management is an ethically acceptable substitute for the capacity for workers to bargain collectively is largely unexplored in the business ethics. This paper endeavors to advance a necessary discussion about worker representation in the business ethics research wherein some (e.g., Adams, 1999; Barry, 2007; Van Buren & Greenwood, 2008) are rightly questioning whether participation programs and employer benevolence are adequate means of voice for workers.

### *Implications for Research*

There are several implications for business ethics and CSR research. First, without minimum cutoffs in important areas of corporate citizenship ratings, business firms are able to strategically emphasize various aspects of their social performance to offset and obfuscate important areas of weakness. Because the FOA conventions are both ethical imperatives and customary rules above the conventions, deficiencies regarding FOA cannot be ameliorated by favorable performance in other areas. Given their connection to human rights and importance as hypernorms, labor rights have greater moral standing than other aspects of corporate citizenship (e.g., executive compensation and perquisites). A consistent ethical orientation requires accepting that labor rights cannot be substituted, as is often the case with compensatory ratings. When dealing with multiple indicators of corporate citizenship, it is necessary to identify firms with inadequate labor relations practices as deficient.

Second, this discussion illustrates that hypernorms are profoundly political, particularly in a global economy where developed and developing countries alike bemoan the diminution of national sovereignty. As Levy (2008) has argued, MNEs are integrated economic and political systems whose projection of power influences virtually all facets of life in their areas of operation. The 'separation thesis' wherein Freeman (1994) derides the notion of 'business without moral content and ethics without business content,' also applies to business ethics and political economy. Because human and labor rights are so closely intertwined, ethical analyses of labor issues cannot be separated from their social and political impacts. The United Auto Workers support of the civil rights movement in the US, Solidarity advocating democratic reforms in Poland, and the Congress of South African Trade Unions helping

to end apartheid in South Africa are heroic examples. Firms oppose unions primarily because it is more costly to maintain a unionized workforce (Blanchflower & Bryson, 2004; Blanchflower & Freeman, 1992), but labor unions' political activity also contributes to the staunch opposition they face around the world.

Lastly, it is important that utility-maximizing arguments do not preclude questions about worker rights and prerogatives as matters of principle. Respect for the FOA conventions need not be justified as a means for increasing profits, even indirectly. Labor unions raise wages—that is arguably their primary reason for existence—and will consequently raise labor costs. To paraphrase Lafer (2005), ethical actions may actually be more profitable than unethical ones, but if that were the case the market would prompt firms to behave ethically. It is important to note that Harley-Davidson, Kaiser Permanente and Chiquita are not industry leaders; each had difficulties prior to, during, and/or after their neutrality agreements. Similarly, Costco does not have greater market share than Sam's Club because respecting the FOA conventions is profitable, and Southwest's practices reflect a principled business model. These are 'best practices' that are justified on deontological grounds.

#### *Implications for Management and Labor Unions*

Some firms have discounted the recent emphasis on the FOA conventions is a cynical ploy to frame union organizing in the less toxic rubric of human rights. Any favorable practice (e.g., community service, sustainability) is subject to misuse by disingenuous people and/or enlightened self-interest, but that is insufficient reason to throw the baby out with the bath water. If, as expected by the Institute for Human Rights and Business, human rights becomes more prevalent in contracts with business partners and governments and there are greater expectations for transparency and accountability (Morrison & Vermijs, 2010), business firms can improve their ethical posture by leaning forward on the FOA conventions rather than waiting for stakeholder or regulatory pressure.

It is also important to note that the FOA conventions are not subject to the discretion of labor unions. For example, Youngdahl (2009) posits that the association of labor rights with human rights undermines the solidarity group ethos that is central to unionism. While human rights are often pursued through individual appeals to the state for protection and redress, labor unions have traditionally focused on activating groups of workers on their own behalf (Frege & Kelly, 2004; Hart, 2001; Kolben, 2010a; McIntyre, 2008). Solidarity could be reduced, but subordinating the FOA conventions to concerns about how individuals chose to use their freedom is to adopt the paternalistic posture for which business firms have been rightly criticized. Unionism is a vehicle for advancing the objectives of FOA conventions, not the reverse. Moreover, the distinction between individual and collective action is overwrought because collective action is used to protect, not suppress, individual rights. Labor unions must guard against institutional parochialism in deference to greater freedoms for workers, regardless of how those freedoms are exercised. If other vehicles of representation prove ineffective, workers are already *organized* and can adopt more traditional forms of collective bargaining.

### Conclusion

As stated by the philosopher Charles Frankel (1955: 203), “[r]esponsibility is the product of definite social arrangements.” In the global market the employment relationship is often comprised of an ominous mixture of workers desperately seeking a better life and business firms looking for low-cost labor. Labor unions and collective bargaining do not eliminate this dynamic, but they help to establish a more equitable means of resolving the inevitable conflicts of interest that will follow. Independent and democratic labor unions are a credible vehicle through which workers can pursue their collective interests, and the FOA conventions are an ethical imperative because human dignity requires that individuals have a voice in all matters of personal consequence.

### NOTES

The author would like to thank Bruce Barry and three anonymous reviewers for their comments and suggestions to improve the manuscript.

1. National Labor Relations Act or the Act; 29 United States Code §§151–169 (1935).
2. Labor Management Relations Act, 1947, Pub. L. No. 80-101, 61 Stat. 136 (1947).
3. “Eight Hours,” I. G. Blanchard and the Reverend Jesse H. Jones.
4. Participation and/or overt support could be viewed as a violation of the NLRA in the US.
5. The NLRB has ruled that neutrality agreements are legally enforceable under Section 301 of the federal Labor-Management Relations Act (National Labor Relations Board, 2004). NLRB General Counsel Arthur Rosenfeld Issue Report on Recent Case Developments Press Release R-2544, November 17 ed.: Office of the General Counsel.
6. The comment was given in response to the author’s question at Academy of Management presentation made by James Parker, August 2010.
7. The contribution rate has subsequently increased to eight percent, which is still only one-third of the retail industry average.
8. Press Release, [http://www.domini.com/about-domini/News/Press-Release-Archive/Global-Investor-Group-20090528.doc\\_cvt.htm](http://www.domini.com/about-domini/News/Press-Release-Archive/Global-Investor-Group-20090528.doc_cvt.htm).
9. UN Declaration of Human Rights, Article 23, Subsection 4.
10. Codes of Conduct. <http://actrav.ilo.org/actrav-english/telearn/global/ilo/guide/main.htm#Summ>.
11. Guidelines for Multinational Enterprises, Employment and Industrial Relations 1(a). Revision 2000; [http://www.oecd.org/document/18/0,3343,en\\_2649\\_34889\\_2397532\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/18/0,3343,en_2649_34889_2397532_1_1_1_1,00.html).
12. <http://www.manpower.gov.om/en/alo.asp>.
13. <http://www.pittsburghsummit.gov/mediacenter/129639.htm>.
14. Home page. <http://www.sa-intl.org/>.
15. Press release: <http://www.hrw.org/en/reports/2010/09/02/strange-case-0>.
16. Base code: <http://www.ethicaltrade.org/eti-base-code/freedom-of-association>.
17. <http://www.laborrights.org/>.
18. <http://www.sld-india.org/>.
19. <http://www.humanrights.asia/issues/freedom-of-association>. Addresses eleven Asian nations (Bangladesh, Burma, Cambodia, India, Indonesia, Nepal, Pakistan, Philippines, South Korea, Sri Lanka, Thailand).
20. <http://www.ens.org.co/index-en.shtml?apc=a---;1;-;-&x=20155478>.
21. <http://www.hrichina.org/>.
22. Press release: <http://www.justice.gov/atr/public/busreview/4513.htm>.
23. Policy Report 4 available at: [www.blihr.org](http://www.blihr.org).
24. <http://www.uniglobalunion.org/apps/UNINews.nsf/vwLkpById/BE79B225ABE73EC4C1257603003B3ADA?>
25. Pope John Paul II. *Laborem Exercens (On Human Work)*, [www.vatican.va/holy\\_father\\_paul\\_ii/encyclicals/](http://www.vatican.va/holy_father_paul_ii/encyclicals/).
26. US Conference of Catholic Bishops. 1986. *Economic Justice for All*. Pastoral Letter. Washington, D.C.

27. Statement on Human Rights: <http://www.wcc-coe.org/wcc/assembly/hr-e.html>.
28. What To Do About Sweatshops. [www.ucc.org/justice/advocacy\\_resources/pdfs/economic-justice/what-to-do-about-sweatshops-pdf.pdf](http://www.ucc.org/justice/advocacy_resources/pdfs/economic-justice/what-to-do-about-sweatshops-pdf.pdf).
29. Principles for performance: <http://www.bench-marks.org/appnlinks.shtml>.
30. <http://www.ilo.org/public/english/dialogue/ifpdial/info/national/jp.htm>.

## REFERENCES

- Adams, R. J. 1999. Collective bargaining: The Rodney Dangerfield of human rights. *Labor Law Journal*, 50: 204–09.
- Addison, J. T., & Hirsch, P. M. 1997. The economic effects of employment regulation: What are the limits? In B. E. Kaufman (Ed.), *Government regulation of the employment relationship*. Madison, Wis.: Industrial Relations Research Association.
- Barbash, J. 1991. Industrial relations concepts in the USA. *Relations Industrielles/Industrial Relations*, 46: 91–118.
- Barry, B. 2007. *Speechless: The erosion of free expression in the American workplace*. San Francisco: Berrett-Koehler Publishers, Inc.
- Bartley, T. 2005. Corporate accountability and the privatization of labour standards: Struggles over codes of conduct in the apparel industry. In H. Prechel (Ed.), *Research in political sociology*, vol. 14: 211–44. Oxford: JAI Press.
- Beaumont, B., & Hunter, L. C. 2003. Collective bargaining and human resource management in Britain: Can partnership square the circle? In T. A. Kochan & D. B. Lipsky (Eds.), *Negotiations and change: From workplace to society*: 161–88. Ithaca, N.Y.: ILR Press.
- Blanchflower, D., & Bryson, A. 2004. The union wage premium in the US and the UK. Center of Economic Performance Discussion Paper #612, London School of Economics.
- Blanchflower, D. G., & Freeman, R. B. 1992. Unionism in the United States and other advanced OECD countries. *Industrial Relations*, 31(1): 56–79.
- Bowie, N. E. 1999. *Business ethics: A Kantian perspective*. Oxford: Blackwell Publishers.
- . 2002. A Kantian approach to business ethics. In R. E. Frederick (Ed.), *A companion to business ethics*. Hoboken, N.J.: Blackwell Publishing.
- . 2005. Kantian ethical thought. In J. Budd & J. G. Scoville (Eds.), *The ethics of human resources and industrial relations*. Champaign, Ill.: Labor and Employment Relations Association.
- Bronfenbrenner, K. 2001. *Uneasy terrain: The impact of capital mobility on workers, wages, and union organizing*. Washington, D.C.: US Trade Deficit Commission.
- Budd, J. W. 2004. *Employment with a human face: Balancing efficiency, equity, and voice*. Ithaca, N.Y.: ILR Press.
- Bureau of Labor Statistics. 2009. 2009 employee benefits in the United States, March ed.
- . 2011a. Economic news release: Median weekly earnings of fulltime wage and salary workers by union affiliation, occupation, and industry (January 11). Retrieved July 3, 2011, from <http://www.bls.gov/news.release/union2.t04.htm>.
- . 2011b. Economic news release: Union members summary (January 21). Retrieved July 3, 2011, from <http://www.bls.gov/news.release/union2.nr0.htm>.
- Carroll, A. B. 1998. The four faces of corporate citizenship. *Business & Society Review* (100/101): 1.

- Cascio, W. F. 1988. Alternative uses of performance data in manpower management. In B. F. Green, H. M. Wing, & A. K. Wignor (Eds.), *linking military enlistment standards to job performance*: 144–70. Washington, D.C.: National Academy Press.
- Chan, A. W., Tong-Qing, F., Redman, T. O. M., & Snape, E. D. 2006. Union commitment and participation in the Chinese context. *Industrial Relations*, 45(3): 485–90.
- Chen, C.-M., & Delmas, M. 2011. Measuring corporate social performance: An efficiency perspective. *Production and Operations Management*, 20(6): 789–804.
- Cohen, C. I. 2000. Neutrality agreements: Will the NLRB sanction its own obsolescence?, *American Bar Association Annual Meeting*, July 10: 1–20. New York.
- Compa, L. A. 2000. *Unfair advantage: Workers' freedom of association in the United States under international human rights standards*. Human Rights Watch.
- Delaney, J. T. 2005. Ethical challenges in labor relations. In J. W. Budd & J. G. Scoville (Eds.), *The ethics of human resources and labor relations*: 203–28: Labor and Employment Relations Associations.
- Davis, K., & Blomstrom, R. L. 1971. *Business, society, and environment: Social power and social response*, 2nd ed. New York: McGraw-Hill.
- diCicco, P. 2007. The case of Kaiser Permanente. Paper presented at the "Exploring Ways to Improve Labor-Management Relations and Collective Bargaining" summit, New York.
- Domini Social Investments. 2009. News archive: Global investor group asks S&P 100 firms how they ensure rights for their US Workers (May 28). Retrieved August 30, 2010, from [http://www.domini.com/about-domini/News/Press-Release-Archive/Global-Investor-Group-20090528.doc\\_cvt.htm](http://www.domini.com/about-domini/News/Press-Release-Archive/Global-Investor-Group-20090528.doc_cvt.htm).
- Donaldson, T., & Dunfee, T. 1999. *Ties that bind*. Boston, Mass.: Harvard University Press.
- Eaton, A. E., & Kriesky, J. 2001. Union organizing under neutrality and card check agreements. *Industrial & Labor Relations Review*, 55: 42–59.
- . 2006. Dancing with the smoke monster: Employer motivations for negotiating neutrality and card check agreements. In R. Block, S. Friedman, M. Kaminski, & A. Levin (Eds.), *Justice on the job: Perspectives on the erosion of collective bargaining in the United States*: 139–62. Kalamazoo, Mich.: Upjohn.
- Egels-Zaden, N. 2009. TNC motives for signing international framework agreements: A continuous bargaining model of stakeholder pressure. *Journal of Business Ethics*, 84: 529–47.
- Egels-Zaden, N., & Hyllman, P. 2007. Evaluating strategies for negotiating workers' rights in transnational corporations: The effects of codes of conduct and global agreements on workplace democracy. *Journal of Business Ethics*, 76: 207–23.
- Esbenshade, J. 2001. The social accountability contract: Private monitoring from Los Angeles to the global apparel industry. *Labor Studies Journal*, 26(1): 98–120.
- . 2004. *Monitoring sweatshops: Workers, consumers and the global apparel industry*. Philadelphia: Temple University Press.
- Estlund, C. L. 2002. The ossification of American labor law. *Columbia Law Review*, 1527: 1532–44.
- Evan, W. M., & Freeman, R. E. 1993. *Stakeholder theory of modern corporation: Kantian capitalism*. Englewood Cliffs, N.J.: Prentice Hall.
- Featherstone, L. 2008. Wage against the machine. *Slate.com* (June 27). Retrieved July 19, 2011, from <http://www.slate.com/id/2194332/>.

- Ferguson, J. 2008. The eyes of needles: A sequential model of union organizing drives. *Industrial & Labor Relations Review*, 62: 3–21.
- Fine, J. 2006. *Worker centers: Organizing communities at the edge of the dream*. Ithaca, N.Y.: Cornell University Press.
- Finnis, J. 1980. *Natural law and natural rights*. Oxford: Clarendon Press.
- Fiorito, J. 2001. Human resource management practices and worker desires for union representation. *Journal of Labor Research*, 22(2): 335–54.
- Folger, R., & Cropanzano, R. 1998. *Organizational justice and human resource management*. Thousand Oaks, Calif.: Sage.
- Foot, R. 2000. *Rights beyond borders: The global community and the struggle over human rights in China*. Oxford: Oxford University Press.
- Forbes. 2011. If Sam's Club can match Costco's efficiency, Wal-Mart goes to \$74. *Forbes.com* (March 2). Retrieved July 18, 2011, from <http://blogs.forbes.com/greatspeculations/2011/03/02/if-sams-club-can-match-costcos-efficiency-wal-mart-goes-to-74/>.
- Frankel, C. 1955. *The case for modern man*. New York: Harper.
- Freeman, R. B., & Rogers, J. 2006. *What workers want*, updated edition. Ithaca, N.Y.: ILR Press.
- Freeman, R. E. 1994. The politics of stakeholder theory: Some future directions. *Business Ethics Quarterly*, 4: 409–21.
- Frege, C., & Kelly, J. 2004. Union strategies in comparative context. In C. M. Frege & K. Kelly (Eds.), *Varieties of unionism: Strategies for union revitalization in a globalizing economy*. Oxford: Oxford University Press.
- Frey, C. 2004. Costco's love of labor: Employees' well-being key to its success. *Seattle Post-Intelligencer Reporter* (March 29). Retrieved December 12, 2010, from [http://www.seattlepi.com/business/166680\\_costco29.html](http://www.seattlepi.com/business/166680_costco29.html).
- Friedman, R., Hunter, L., & Chen, Y. 2008. Union-management conflict: Historical trends and new directions. In C. K. W. De Dreu & M. J. Gelfand (Eds.), *The psychology of conflict and conflict management*: 353–84. New York: Lawrence Erlbaum Associates.
- Frontline. 2004. Is Wal-Mart a bargain for its workers? <http://www.pbs.org/wgbh/pages/frontline/shows/walmart/transform/employment.html>.
- Gelb, D. S., & Strawser, J. A. 2001. Corporate social responsibility and financial disclosures: an alternative explanation for increased disclosure. *Journal of Business Ethics*, 33(1): 1–13.
- Godfrey, P. C., Merrill, C. B., & Hansen, J. M. 2009. The relationship between corporate social responsibility and shareholder value: An empirical test of the risk management hypothesis. *Strategic Management Journal*, 30: 425–45.
- Gould, W. B. 2004. *A primer on American labor law*. Cambridge, Mass.: MIT Press.
- Greenhouse, S. 2005. How Costco became the anti-Wal-Mart. *The New York Times* (July 17), [http://www.nytimes.com/2005/07/17/business/yourmoney/17costco.html?\\_r=2&pagewanted=print](http://www.nytimes.com/2005/07/17/business/yourmoney/17costco.html?_r=2&pagewanted=print).
- Greer, S. 1996. Community-labor alliance sparks South Carolina. *Labor Research Review*, 1(24): 87–91.
- Gross, J. A. 2002. Applying human rights standards to employment rights in the USA: The human rights watch report. *Industrial Relations Journal*, 33: 182–96.



- \_\_\_\_\_. 2003. A long overdue beginning: The promotion and protection of workers' rights as human rights. In J. A. Gross (Ed.), *Workers' rights as human rights*: 1–23. Ithaca, N.Y.: Cornell University Press.
- \_\_\_\_\_. 2009. Takin' it to the man: Human rights at the American workplace. In J. A. Gross, & L. A. Compa (Eds.), *Human rights in labor and employment relations*: 21–41: Labor and Employment Relations Association.
- Gross, J. A., & Compa, L. A. 2009. Introduction. In J. A. Gross, & L. A. Compa (Eds.), *Human rights in labor and employment relations*: 1–21: Labor and Employment Relations Association.
- Hammer, T. H. 2000. Nonunion representational forms: An organizational behavior perspective. In B. E. Kaufman, & D. G. Taras (Eds.), *Nonunion employee representation: History, contemporary practice, and policy*. New York: M. E. Sharpe.
- Harris, J. 2008. Labor relations at Southwest Airlines. <http://www.blogsouthwest.com/blog/labor-relations-southwest-airlines>.
- Hart, S. 2001. *Cultural dilemmas of progressive politics: Styles of engagement and why it matters*. Chicago: University of Chicago Press.
- Hartman, L. P., Shaw, B., & Stevenson, R. 2003. Exploring the ethics and economics of global labor standards: A challenge to integrated social contract theory. *Business Ethics Quarterly*, 13(2): 193–220.
- Human Rights Watch. 2010. A strange case. September 2. Human Rights Watch.
- ILO. 1994. 292nd Report. In p. case no. 1698 (Ed.): ILO.
- \_\_\_\_\_. 1998. ILO declaration on fundamental principles and rights at work and its follow-up. June. International Labor Organization. Retrieved on May 5, 2011, from <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>.
- \_\_\_\_\_. 2010. Ratifications of the ILO fundamental conventions.
- International Association of Employers. 2007. IFA: An employers guide. Geneva: International Association of Employers.
- International Metalworkers' Federation. 2006. All framework agreements. June 14. IMF.
- Josephs, H. K. 2003. *Labor law in China*, 2nd ed. Huntington, N.Y.: Juris Pub Inc.
- \_\_\_\_\_. 2009. Measuring progress under China's labor law: Goals, processes, outcomes. *Comparative Labor Law and Policy Journal*, 30: 373–94.
- Justice, D. 2003. Corporate social responsibility: Challenges and opportunities. In D. Justice (Ed.), *Corporate social responsibility: Myth or reality?*: 1–15. Geneva: International Labour Office.
- Kaufman, B. E. 1997. Labor markets and employment regulation: The view of the "old" institutionalists. In B. E. Kaufman (Ed.), *Government regulation of the employment relationship*. Madison, Wis.: Industrial Relations Research Association.
- KLD Research & Analytics. 2010. FTSE KLD 400 social index: Methodology.
- Kleiner, M. M. 2001. Intensity of management resistance: Understanding the decline of unionization in the private sector. *Journal of Labor Research*, 22: 519–40.
- Kochan, T. A., Eaton, A. E., McKersie, R. B., & Adler, P. S. 2009. *Healing together: The labor-management partnership at Kaiser Permanente*. Ithaca, N.Y.: ILR Press.
- Kochan, T. A., McKersie, R. B., & Chalykoff, J. 1986. The effects of corporate strategy and workplace innovations on union representation. *Industrial and Labor Relations Review*, 39(4): 487–501.

- Kolben, K. 2010a. Labor rights as human rights? *Virginia Journal of International Law*, 50(2): 449–84.
- . 2010b. The WTO distraction. *Stanford Law & Policy Review*, 21(3): 1–35.
- Lafer, G. 2005. The critical failure of workplace ethics. In J. W. Budd & J. G. Scoville (Eds.), *The ethics of human resources and labor relations*: 273–98. Champaign, Ill.: Labor and Employment Relations Association.
- Lamb, D. 1999. Job opportunity or exploitation. *Los Angeles Times* (April 18). <http://articles.latimes.com/1999/apr/18/business/fi-28567>.
- Leahy, J. T. 2001. Making room for labor in business ethics. *Journal of Business Ethics*, 29(1/2): 33–43.
- Lee, J. 2005. International migration, deindustrialization and union decline in 16 affluent OECD countries. *Social Forces*, 84(1): 71–88.
- Levy, D. L. 2008. Political contestation in global production networks. *Academy of Management Review*, 33(4): 943–63.
- Locke, R., Kochan, T. A., Romis, M., & Qin, F. 2007. Beyond corporate codes of conduct: Work organization and labour standards at Nike's suppliers. *International Labour Review*, 146(1–2): 21–40.
- Lome Convention. 1995. Democratization, the rule of law, respect for human rights and good governance: The political issues of the partnership between the European Union and the ACP states: Commission communication COM (98) 146. Retrieved November 10, 2010, from [http://www.acpsec.org/en/conventions/lome4\\_e.htm](http://www.acpsec.org/en/conventions/lome4_e.htm).
- Mamic, I. 2004. *Implementing codes of conduct: How to manage social performance in global supply chains*. Sheffield, UK: Greenleaf Publishing.
- Marglin, S., & Schor, J. B. 1990. *The golden age of capitalism: Reinterpreting the post-war experience*. Oxford: Oxford Press.
- Massachusetts Institute of Technology. 2011. Airline industry overview. Global airline industry program. Retrieved May 13, 2011, from [http://web.mit.edu/airlines/analysis/analysis\\_airline\\_industry.html](http://web.mit.edu/airlines/analysis/analysis_airline_industry.html).
- Mattingly, J. E., & Berman, S. L. 2006. Measurement of corporate social action: Discovering taxonomy in the Kinder Lydenburg Domini ratings data. *Business & Society*, 45(1): 20–46.
- Maynard, M. 2004. Out of the blue, Southwest Airlines chief resigns. *New York Times* (July 17). <http://www.nytimes.com/2004/07/16/business/out-of-the-blue-southwest-airlines-chief-resigns.html>.
- McIntyre, R. P. 2008. *Are worker rights human rights?* Ann Arbor: University of Michigan Press.
- Mehta, C., & Theodore, N. 2005. *Undermining the right to organize: Employer behavior during union representation campaigns*. Champaign: University of Illinois: Center for Urban Economic Development.
- Morrison, J., & Vermijs, D. 2010. *The state of play of human rights due diligence: Anticipating the next five years*. London: Institute for Human Rights and Business.
- Müller, T., Platzer, H. W., & Rüb, S. 2010. *International framework agreements: Opportunities and limitations of a new tool of a global trade union policy*: International Trade Union Cooperations Briefing Paper No. 8.

- National Labor Relations Board. 2004. NLRB general counsel Arthur Rosenfeld issues report on recent case developments. *Press Release R-2544*, November 17. Office of the General Counsel.
- Nickel, J. 1987. *Making sense of human rights: Philosophical reflections on the universal declaration of human rights*. Berkeley: University of California Press.
- O'Rourke, D. 2003. Outsourcing regulation: Analyzing non-governmental systems of labour standards and monitoring. *Policy Studies Journal*, 31(1): 1–29.
- Oswald, R. 2008. The IUF's transnational company work and Chiquita case. Global Companies and Global Union Organizations, Centre for Global Labor Research: Banana Fair Trade-Just Trade Cardiff Symposium, January 9.
- Pencavel, J. 2005. Unionism viewed internationally. *Journal of Labor Research*, 26(1): 65–97.
- Raustiala, K. 2005. Form and substance in international agreements. *The American Journal of International Law*, 99: 581–614.
- Rawls, J. 1971. *A theory of justice*. Cambridge, Mass.: Harvard University Press.
- Reuters, 2010. Wal-Mart settles wage and hour lawsuit for up to \$86 million (May 12). Retrieved June 6, 2011, from <http://www.reuters.com/article/2010/05/12/us-walmart-lawsuit-settlement-idUSTRE64B3MG20100512>.
- Riisgaard, L. 2004. The IUF/COLSIBA-Chiquita framework agreement: A case study. In M. E. P. W. P. N. 94 (Ed.). Geneva: International Labor Organization.
- . 2005. International framework agreements: A new model for securing worker's right? *Industrial Relations*, 44: 707–37.
- Rokeach, M. 1973. *The nature of human values*. New York: Free Press.
- Ruggie, J. 2008. *Protect, respect, and remedy: A framework for business and human rights*. New York: United Nations Human Rights Council.
- Scherer, A. G., & Palazzo, G. 2007. Toward a political conception of corporate responsibility: Business and society seen from a Habermasian perspective. *Academy of Management Review*, 32(4): 1096–1120.
- Schwartz, M. S., & Carroll, A. B. 2003. Corporate social responsibility: A three-domain approach. *Business Ethics Quarterly*, 13: 503–30.
- Sethi, S. P. 1975. Dimensions of corporate social performance: An analytical framework. *California Management Review*, 17(3): 59–64.
- Shamdasani, R. 2001. Soul searching by “shoe geeks” led to social responsibility. *South China Morning Post* (May 17): 2.
- Social Investment Forum. 2010. Sustainable and responsible investing facts. <http://www.socialinvest.org/resources/sriguide/srifacts.cfm>.
- Staw, B. M., Sandelands, L. E., & Dutton, J. E. 1981. Threat-rigidity effects in organizational behavior: A multi-level analysis. *Administrative Science Quarterly*, 26: 501–24.
- Sternin, M., Sternin, J., & Marsh, D. 1998. Designing a community-based nutrition program using the hearth model and the positive deviance approach: A field guide. Westport, Conn.: Save the Children Federation, Inc.
- Stavis, D. 2010. International framework agreements and global social dialogue: Parameters and prospects, ILO Employment Working Paper No. 47. Geneva: International Labor Organization.

- Stewart, J. H. 2006. Neutrality and "card check" agreements: Union assaults on employee and the integrity of the National Labor Relations Board. *Journal of Labor Research*, 27: 443–72.
- Toke, A., & Tzannatos, Z. 2002. *Unions and collective bargaining: Economic effects in a global environment*. Washington, D.C.: Word Bank.
- Tuck, R. 1979. *Natural rights theories: Their origin and development*. Cambridge: Cambridge University Press.
- United Nations. 1948. The universal declaration of human rights. Retrieved November 16, 2010, from <http://www.un.org/en/documents/udhr/>.
- . 2010. Human Rights and Business Dilemmas Forum: Freedom of association. <http://human-rights.unglobalcompact.org/dilemmas/freedom-of-association/>.
- Van Buren, H., & Greenwood, M. 2008. Enhancing employee voice: Are voluntary employer-employee partnerships enough. *Journal of Business Ethics*, 81(1): 209–21.
- van Tulder, R., & Kolk, A. 2001. Multinationality and corporate ethics: Codes of conduct in the sporting goods industry. *Journal of International Business Studies*, 32: 267–83.
- Velasquez, M., Claire, A., Shanks, T., & Meyer, M. J. 1988. Consistency and ethics. *Issues in Ethics*, 1(3) (Spring).
- Verma, A. 2007. What do unions do to the workplace? Union effects on management and HRM policies. In J. T. Bennett & B. E. Kaufman (Eds.), *What do unions do? The evidence twenty years later*: 451–63. New Brunswick, N.J.: Transaction Publishers.
- Visser, J. 2006. Union membership statistics in 24 countries. *Monthly Labor Review*, January: 39–49.
- Waddock, S. A. 2003. Myths and realities of social investing. *Organization and Environment*, 16: 369–80.
- Waddock, S. A., & Graves, S. B. 1997. The corporate social performance-financial performance link. *Strategic Management Journal*, 18(4): 303–19.
- Wallerstein, M., & Western, B. 2000. Unions in decline? What has changed and why. *Annual Review of Political Science*, 3: 355–77.
- Weaver, G. R., Treviño, L. K., & Cochran, P. L. 1999. Corporate ethics programs as control systems: Influences of executive commitment and environmental factors. *Academy of Management Journal*, 42(1): 41–57.
- Weidman, S. 2007. The case of Harley-Davidson. *IR Concepts*, Summer. Retrieved December 13, 2010, from <http://www.ircounselors.org/irconcepts/index.html>.
- Welsh, J. 2010. Harley-Davidson says new contract will keep it in Wisconsin. *Wall Street Journal* (September 14). <http://blogs.wsj.com/drivers-seat/2010/09/14/harley-davidson-says-new-contract-will-keep-it-in-wisconsin/>.
- Wheeler, H. 2001. *The future of the American labor movement*. New York: Cambridge University Press.
- Wood, D. J., & Logsdon, J. M. 2001. Theorizing business citizenship. In J. Andriof & M. McIntosh (Eds.), *Perspectives on corporate citizenship*. Sheffield, UK: Greenleaf Publishers.
- Youngdahl, J. 2009. Solidarity first: Labor rights are not the same as human rights. *New Labor Forum (Murphy Institute)*, 18(1): 30–37.

Copyright of Business Ethics Quarterly is the property of Philosophy Documentation Center and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.