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CHILD LABOR AND EXPLOITATION

ELLIOT SCHRAGE*

* Elliot Schrage received B.A., J.D., and M.P.P. degrees from Harvard University and studied at the Ecole Normale Supérieure in Paris.

Mr. Schrage is a teacher, lawyer and writer with extensive experience working on private corporate matters and public interest issues. He counsels Clark & Weinstock clients on a wide range of strategic business and public policy issues and has special expertise on matters of corporate responsibility.

Since 1990, Elliot Schrage has served as Adjunct Professor at Columbia University Business School, where he teaches a seminar that explores the intersection of international human rights law and multinational business practices. It is the first and, to date, only such course offered by a business school in the United States. He has written and spoken widely on this and related topics before human rights advocacy groups, corporations, foundations, and trade associations, including Amnesty International, the Carter Presidential Center, the Ford Foundation, Business for Social Responsibility and the World Federation of Sporting Goods Industry.

Having worked for over 15 years to promote respect for international human rights and environmental protection, Elliot Schrage has broad experience in public interest advocacy. He has worked with such groups as the Lawyers' Committee for Human Rights, Human Rights Watch and the RFK Memorial Center to investigate allegations of human rights abuses in Africa, Asia, Central America and Eastern Europe, and is the author/editor of numerous reports on the administration of justice and human rights conditions in Yugoslavia, Peru, El Salvador and Haiti. In 1992, he created and served as the first Director of the Liaison Office on Human Rights and Environment, an initiative of the Nathan Cummings Foundation.

Elliot Schrage has represented a wide variety of U.S. and foreign corporations in international transactions and served as consultant to several multinational corporations and trade associations, helping them draft corporate human rights "codes of conduct," design mechanisms to monitor their compliance, and evaluate the effectiveness of monitoring programs. In 1996, he helped organize a partnership of the international sporting goods industry, UNICEF, Save the Children and the International Labor Organization, for the purpose of ending child labor in soccer ball production in Pakistan, the source of three of every four balls produced each year; a successor project will be announced shortly, covering production in India. Mr. Schrage is currently working with members of the American Apparel Manufacturers' Association to develop the "Responsible Apparel Production Certification Program," a global program to certify apparel factories that comply with fundamental human rights standards.

Trained as a lawyer, Elliot Schrage began his career at Sullivan & Cromwell in New York and Paris, where he specialized in U.S. securities offerings, mergers and acquisitions, and complex corporate transactions, including project financing for the Euro Disneyland theme park.

Mr. Schrage is a member of the Council on Foreign Relations, the American Association for the Advancement of Science's Committee on Scientific Freedom and Human Rights, and the Advisory Committee on International Child Labor Enforcement of the U.S. Department of the Treasury. His board experience includes the Harvard Law School Association of New York (Trustee), the International League for Human Rights (Director), and the Medicare Beneficiaries Defense Fund (Director).

It is a pleasure to be here. Unlike the other panelists, I actually will stand here and speak from the podium—if only so I can tell my colleagues that I came to preach at St. John's. It is simply too good an opportunity to pass up.

I would like to begin today by posing two questions to the audience and then using your answers to guide my discussion of several other questions about child labor in the global economy. In particular, the questions I hope to address include what is reasonable or unreasonable to expect of business managers who discover child labor? What can those of you here who care about these issues, and clearly your attendance here indicates you do, what can you do to encourage responsible business action? Finally, how each of you are affected by the international legal regime that the previous panelists have described?

My questions to you are quite straightforward. You should all know that St. John's and Nike have for several years had an agreement under which Nike pays the university a royalty for the right to produce athletic apparel, sweatshirts, tee-shirts and the like, bearing the St. John's name and seal. How many of you here are aware of the campaign to have St. John's sever its licensing relationship with Nike because of allegations that Nike tolerates the use of sweatshop labor in the production of its apparel and footwear? Interestingly, not everyone here is aware of the campaign or the publicity.

My second question is for those who are aware of the campaign. How many of you believe that St. John's should sever its relationship with Nike, based on what you have read? Do not be shy. It is interesting that a large majority of you feel your university should not do business with Nike. I hope you are aware that your university has established a task force to establish basic workplace requirements for St. John's licensees and an appropriate oversight role for the university.

Your answers suggest some direction for my remarks. In the brief time I have, I hope to answer three questions. The first question is what got us here today? As we know, child labor has been an issue of great concern, or at least has been a serious problem, not simply for decades, but for centuries. But we are having this panel here, now, today. While I can personally attest to Ms. Vellios' diligence in organizing this conference, I have to believe that there were students of similar drive and discipline at

this university and at this law school ten or fifteen years ago. However, they were not organizing panel discussions on child labor. What has changed?

The second question I want to address is how has the international community responded to the growing concern over child labor? Since this is a potentially vast subject and since my time is limited, I plan to answer that question through a discussion of a single case study, one that I know quite well. In February 1997, the ILO, UNICEF, Save the Children and the global soccer industry announced a partnership to end child labor in the production of soccer balls in Pakistan,¹ the source of three of every four hand stitched soccer balls produced in the world each year.² I was closely involved in nurturing that partnership and I think the experience illustrates both the challenges and opportunities that arise when individuals and organizations of good faith try to come together to address what seems like a classic case of child labor.

Finally, I want to end with the question, what lessons can we learn from initiatives like the soccer ball partnership? How can it guide future attempts to protect children from child labor? I have several lessons I hope to offer.

THE CONVERGENCE OF HUMAN RIGHTS, ECONOMIC ACTIVITY, AND INFORMATION FLOWS

It is my thesis, and indeed I have written about this elsewhere, that the fact that we are talking about these issues today results from the convergence of three important trends. The first trend is really the globalization of human rights. That is, the principle that how a government treats its citizens is a legitimate subject of inquiry and concern by other governments and their citizens is a principle that gained legal standing following World War II at

¹ See generally *International Labor Organization: IPEC in Action: Asia: ILO-IPEC Program in Pakistan* (visited Feb. 26, 2000) <<http://www.ilo.org/public/english/standards/ipec/action/31asia/pakist98.htm>>. The Pakistan project began with the signing of an agreement between the ILO, UNICEF and the Sialkot Chamber of Commerce and Industry in 1997. *Id.* It marked the beginning of a joint partnership among all the signatories to eliminate child labor in the football stitching industry over the next two years. *Id.*

² See generally *International Labor Organization, ILO Unites With Industry Groups To Combat Child Labor* (updated February 14, 1997) <<http://www.ilo.org/public/english/bureau/inf/pr/97-2.htm>>. The ILO notes that the Sialkot district, in the Punjab Province of Pakistan, produces nearly 75% of the world's hand-stitched soccer balls. *Id.*

the Nuremberg tribunals. As a result of a growing movement of lawyers, scholars, and activists in the non-governmental community, as well as international organizations, this principle has become enshrined not only in international law, but also in our public thinking and in our daily lives. Indeed, one only has to look to the debate over events in the Balkans to appreciate that the issue of humanitarian issues or human rights are really a cornerstone or centerpiece, perhaps somewhat controversially, of the policy of this country and many countries around the world.

A second trend is the globalization of business and commerce. While there has always been a level of international trade and investment that has been great, the past fifteen years have certainly seen new markets open and barriers to trade and investment fall down. Multinational companies source products ever more broadly, and companies make investments literally around the world.

All of you today who are fortunate enough to own stock in companies in the United States are connected to that global economy. All of you today who go out and shop are connected to the global economy. That growth in global economic activity is a trend that has created even stronger connections between countries.

The third trend is relatively new, though it certainly receives a lot of attention. That trend is the globalization of information networks. That is a critical third element. The human rights movement legitimated our concern over human rights conditions in other countries. More recently, the globalization of business has made us all global consumers. As a result of this third trend, we now receive much more information about *how* these products are made. The problems that exist in these other countries have become a much, much more visible source of attention and therefore concern to all of us. And that really, in my mind, has been the source of a tremendous amount of the activity and interest in this area.

CASE STUDY—CHILD LABOR AND SOCCER BALL PRODUCTION IN PAKISTAN.

The convergence of these trends has fuelled great attention and concern over human rights and working conditions in the

developing world. Indeed, in several cases, this attention and concern has led to action. How did that play out in the case of soccer balls? I'm sure most of you have seen a soccer ball. Some of them are molded or machine manufactured. The highest quality balls, though—the ones used in competition at all levels and the ones coveted by grown-ups and kids alike—are stitched by hand. They consist of thirty-two identically shaped panels stitched together by hand. It is a classic case of labor intensive production, since no cost-effective equipment exists to stitch the panels together.

Well, as Tony Freeman mentioned earlier, in the early 1990s, seventy-five to eighty percent of all hand-stitched soccer balls were produced in Pakistan.³ This production occurred in one district called Sialkot. It is a poor region by U.S. standards, but not particularly poor by Pakistani standards, and is located near Pakistan's border with India.

The remarkable concentration of this global industry—totaling about \$1 billion in retail sales—in one small part of a poor country is not particularly well known. I certainly would not have known this had there not been a segment of the CBS magazine show "Eye to Eye by Connie Chung," which broadcast graphic pictures of young children stitching soccer balls.

What made the story such a good story from a media perspective was the identity of the companies whose brands, whose logos, were attached to those soccer balls. You or I may never have heard of Sialkot, and we undoubtedly never heard of the name of the manufacturing company. However, we certainly have heard of the companies whose names were splashed across the balls. Nike? Yes. What about Adidas? Yes. What about Reebok? Yes, the trifecta.

That was a grave problem and resulted in a tremendous amount of follow-up publicity in the United States and Europe. I am going to focus my conversation here on the United States, where an article appeared in *Atlantic Monthly*⁴ and heart-wrenching pictures were published in *Life Magazine*.⁵ That

³ See *ILO-IPEC Program in Pakistan*, *supra* note 1.

⁴ See Jonathan Silvers, *Child Labor in Pakistan*, *THE ATLANTIC MONTHLY*, Feb. 1996, at 79 (discussing child labor in Pakistan).

⁵ See Sydney H. Schanberg, *Six Cents an Hour; on the Playgrounds Of America, Every Kid's Goal is to Score. In Pakistan, Where Children Stitch Soccer Balls for Six Cents an*

publicity resulted in tremendous interest and concern.

Every company that purchased balls made in Pakistan wanted to know what was going on. No company responded to questions with, "Gosh, we think this is great. We are really happy with this practice." All of them said that they objected to the practice. All of them, interestingly, said at the time, "We are not involved, we don't make the balls. We just buy the balls from these suppliers. We give them our specifications, so they can silkscreen our logo onto the ball. But that is really the only direct connection other than cash between us and the manufacturing process."

There was a huge hue and cry about this and the Secretary of Labor at the time, Robert Reich, and Congressman Patrick J. Kennedy of Massachusetts helped facilitate a public campaign of letter writing, et cetera, to the sporting goods companies, calling on them to stop using child labor. The protest movement they supported was cleverly called the "Foul Ball" campaign. So the sporting goods companies faced a problem. Their challenge became how to respond.

First, I want to remind you that the ILO and others have determined that only a very small fraction—perhaps as low as five percent—of all child labor is involved in the export industry.⁶ So one response could be, "Look, we're not the problem. We're no more than five percent of this. There are other people who are much more involved. We in the industry or we in the United States shouldn't really care about this problem."

You will not be surprised to learn that that would have been an unacceptable response, viewed as unsatisfactory by the public and the press. If you are cynical, you could say that such an approach was rejected for commercial reasons, since companies knew that customers would not accept it. If you want to be more sympathetic, you might say that executives and business people have consciences and did not feel comfortable with supporting that kind of policy, no matter how small in degree.

The question for companies remained, well, what do we do?

Hour the Goal is to Survive, LIFE, June 1996, at 38 (describing soccer ball industry in Pakistan).

⁶ John Christopher Anderson, *Respecting Human Rights Multinational Corporations Strike Out*, 2 U. PA. J. LAB. & EMPLOYMENT L. 463, 476 (2000) (discussing I.L.O. and child labor).

We do not want to have this practice. How did this practice begin and how many children are involved? Just how big of a problem is it? And so, the industry made a couple of very important decisions very early on.

From the beginning, the sporting goods companies agreed to attack this problem as an industry and not simply on a company by company basis. That was a profound decision, motivated by business reasons and by social reasons. The business reasons were many. Companies did not want child labor to become a marketing issue “our balls are more child labor free than your balls.” Companies did not have the resources or expertise to understand or solve the problem acting alone. But, companies also realized that a cooperative approach was likely to be better for children—and would use resources more effectively—than an approach based on competition in the marketplace.

The next decision was to better understand the process of soccer ball production and the role children played in it. The research, in which I was involved, reached several important conclusions. It determined that, yes, children in fact were stitching soccer balls. It also found that soccer ball stitching was one of the most lucrative forms of work in Sialkot.

The research found that stitching soccer balls was not the best thing for one’s health, exposing workers to forms of repetitive stress injuries that are becoming increasingly common in this country. However, again it also found that compared to available alternatives, stitching soccer balls was one of the least dangerous things young children were doing. Interestingly, the research determined that children were performing stitching work at home, by and large, with their parents. Contradicting the most outrageous journalistic reports, children were not bonded child slaves, beaten by strangers in back-alley workshops. They were doing it at home, as part of a classic cottage industry.

Finally, the research revealed that children were working because they and their families, particularly their families, were not satisfied with the educational opportunities available to them. That’s a very nice phrase, “not satisfied with educational opportunities available.” It is a way of saying there were no functioning schools.

I should add that this research performed by a well-regarded social science research organization in Pakistan. However, since

it was commissioned by the soccer industry, it could have been subject to challenge and it was. But subsequently, UNICEF, ILO, and Save the Children all commissioned and performed their own research on these matters and came to these same conclusions. In fact, I suspect that the subject of child labor in the soccer ball industry in Sialkot, Pakistan has been the subject of more survey research than any other industry in the past twenty years.

Armed with this information, the industry had to decide how it would respond. Because while the research was extremely informative, it revealed that the picture of child workers sewing soccer balls in Sialkot was really more textured than the black and white situation painted by the industry's critics. On the one hand, everyone here, I am sure, because your instincts cannot be that different from mine, would say, "We can't tolerate this practice. We have got to stop this. However, but then you realize that preventing the children from working also entails responsibilities. If you end up preventing kids from stitching soccer balls, you end up having profound impacts on their family, their community and their society.

In light of the research, I believe responsible people have to ask themselves whether stopping children from stitching soccer balls be the right thing to do. Specifically, given the alternatives available to children in Pakistan, should foreign companies and foreign consumers be forbidding them from stitching soccer balls? Those are really hard questions, and I strongly believe that honorable people can answer them differently. Let me tell you what the sporting goods industry did. The companies involved made a decision that children stitching soccer balls was not an acceptable business practice. At the same time, however, they said they could not simply kick the children out of this production process without helping to provide alternatives to them.

So began the next stage, which was building a program that came to be known as the Partnership to End Child Labor in Soccer.⁷ The Partnership essentially consists of two key elements. The first element, called the "Prevention and

⁷ See generally *Partnership to End Child Labor in Soccer* (visited March 6, 2000) <<http://www.no1child.com/index.html>>. The Partnership was designed to eliminate child labor from the soccer ball industry in Sialkot, Pakistan. *Id.*

Monitoring Program," involved changing the production process so that children and families no longer stitch in their homes. Pakistani soccer ball manufacturers agreed to a timetable to construct centralized stitching centers. Some manufacturers, like the people who supply Nike and Reebok, set up huge factories with hundreds of people. Others, who supply balls to other brands, set up lots of little facilities, each employing ten or twenty "stitchers." The reason these facilities were established was to ensure that soccer ball stitching could be independently monitored, so that a mechanism exists to inspect these facilities and check to see who is working there and to make certain that children are not stitching.

The second element of the Partnership came from the recognition that successful implementation of the Prevention and Monitoring Program would force children from their work. In order to avoid the terrible result of children moving to more hazardous forms of work, the Partnership includes what we call a "Social Protection Program." In conjunction with ILO, UNICEF, and Save the Children, the Social Protection Program is charged with improving local schools, creating new vocational training centers and offering micro-credit loans to families who no longer receive income from the stitching done by their children.

I am happy to report that the Partnership is now in place and operating. It is moving much more slowly, I think, than people would like. But it is actually making changes on the ground, something on the order of five or six million dollars is being spent to promote educational opportunities and gradually production has shifted away from children. I think the Partnership has already proven the importance of cooperation between the private sector, the public sector, and the non-governmental community.

LESSONS FOR THE FUTURE

In the short time I have left, I want to offer several lessons that the soccer ball example offers those who want to end child labor, or for that matter, use international trade as a lever to improve conditions for workers around the world. Lesson number one, and I know that I am repeating the mantra stated before, is that EDUCATION IS KEY. I do not agree with Tony's contention that the old conventional wisdom is no longer correct.

Poverty is the problem. But the way you solve the cycle of poverty leading to child labor is by requiring education. If the old conventional wisdom is that poverty is the cause of child labor, the new corollary may be compulsory education helps break the cycle.

Number two: **THE PRIVATE SECTOR IS CRYING OUT FOR CLEAR STANDARDS.** In my brief case study, I assumed that the work performed by children met the legal definition of child labor established by international law. In fact, it is not at all clear that the work performed by children in Sialkot fit this definition. If a child is stitching at home with his family and does not want to go to school – or stitches before or after school, is that child labor? Or does it fit another definition, that of “child work”? The absence of clear standards led the sporting goods industry to take a very hard line. While such an approach might have been appropriate in combination with the social protection elements, I worry that without them, the industry would have created a child labor problem by pushing children away from soccer stitching and into other, far more hazardous occupations.

Number three: **THE BUSINESS COMMUNITY CANNOT SOLVE THESE PROBLEMS ALONE.** The businessmen and women I worked with were great business people. However, they knew nothing about building educational programs. As the case illustrates, the solution to the problem of child labor requires the cooperation of business people and people outside of business.

Number four: **BEWARE OF UNINTENDED CONSEQUENCES.** As I said, the result of the Partnership has been to move workers away from home stitching into stitching centers. Well, in the Muslim society of Pakistan which has forced women out of the industry. Women are discouraged from leaving the home in fundamentalist Muslim societies. Women have been very reluctant to stitch in stitching centers, particularly in centers where they work alongside men. The income that women used to receive is no longer available to them.

That result, for those of you who care about women's rights, and perhaps that will be the subject of a conference at St. John's next year, was unexpected and unpleasant. Those of us who worked to put together the Partnership did not anticipate this consequence. We were focused on children's rights, and never expected a tradeoff to exist with women's rights. I should add

that the Partnership has worked diligently to correct this problem, and has successfully developed centers exclusively for women.

Number five: DO NOT IGNORE THE CONSTRAINTS OF ECONOMIC COMPETITION. It is all very well and good to have this fabulous program in Pakistan, source of 75% of the world's hand-stitched soccer balls.⁸ But even with such a large share of the market, Pakistan is not the exclusive source of production for this product. Two years after the protests began, and one year after the Partnership was created, publicity about child labor and the incremental costs associated with the Partnership have led consumers and corporate customers to stop buying soccer balls from Pakistan. Guess where they buy soccer balls from now? China.

For those of us who care about human rights, this is not a happy outcome. China is a more repressive society than Pakistan, and it is certainly much more difficult to examine the production practices of factories in China than in Pakistan. Indeed, there have been allegations that soccer balls produced in China have been stitched by prison labor, including imprisoned political dissidents. This is hardly the result desired by those who began the Foul Ball campaign. The lesson there, of course, is that you have got to be careful. The economics of the situation were such that we really must beware the constraints of economic competition.

The last point is a really simple and obvious one. That is precisely because the child labor problem is so small from the perspective of the export sector, that multinational business really should be viewed as allies, not adversaries, for people who care about children's rights or, more generally, human rights. I will be happy to explore that issue in more detail during the time we have for questions.

⁸ See *ILO-IPEC Program in Pakistan*, *supra* note 1.

