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Nike in Vietnam: A Case Study for Consideration during the TPA/TPP Vote

BACKGROUND

My name is Jim Keady. I am the Director of a small US-based NGO that has done advocacy on labor rights in Southeast Asia for fifteen years. I got involved in this work as a graduate assistant soccer coach at St. John's University in 1997 while I was coaching with the NCAA National Champions. Along with my coaching, I was also pursuing a graduate degree in Theology and wrote a research paper for a class about Nike's labor practices in light of Catholic Social Teaching. What I found was that if you wanted to find a company that violated everything that our Catholic University stood for, Nike was the perfect case study. At the same time I was learning about Nike's labor abuses, St. John's University was in the midst of negotiating a multi-million dollar endorsement contract with Nike and as part of that deal I would have to wear and promote Nike's products.

After a year of attempting to negotiate myself out of the deal and trying to encourage the University to not go through with it, I was given an ultimatum to "wear Nike, drop this issue or resign." I resigned in protest and became the first athlete in the world to say no to Nike because of the sweatshop issue.

This was big news and my story was featured in all of the major news outlets.

What started as a classroom assignment went from the realm of the intellectual to the domain of the practical. What if, as a matter of conscience, he could not wear the Nike logo when the deal was sealed? He said school officials could not ease his concerns, and his coach demanded that he either "drop the issue, wear Nike or resign." NY Times, September 16, 1998

Because of the attention I received, I was invited to college campuses to speak about the sweatshop issue. At times I was criticized that I did not know what I was talking about and that working at a Nike factory was "a great job for *those* people."

I knew my critics were wrong, but the competitive athlete in me wanted to prove them wrong, so in the summer of 2000 I moved to Indonesia and went to live with Nike factory workers on their wages and in the conditions in which they live. I spent one month living in a slum in a rat-infested hell-hole, sleeping on a cement floor and trying to survive on a Nike sweatshop wage. I lost 25lbs that month and I met the women and men who made the products that I wore for years and never thought twice about



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who made them or what their lives were like.

Jim Keady admits that the moment came when even he had to wonder. It was a bit more than a month ago, and he was lying on a reedy mat on the bumpy, shelf-papered floor of a tiny, dank cement flat in slummy Tangerang, an industrial suburb of Jakarta. His head was throbbing from a headache, and he felt so faint from hunger that the 6-4 former soccer pro was having trouble "lifting a water bottle to my mouth without it shaking violently." The absurdity of it is that Keady's sufferings were self-imposed: the result of his having volunteered to live for a month on the typical wages—about \$1.20 a day—of an Indonesian factory worker sewing shoes for Nike. — The Village Voice, October 3, 2000

I promised those workers I would go home and advocate for them and fight to get them better wages and working conditions. I thought I was going to do that work for a few months upon my return and I have been doing it now for 15 years.

I have helped workers win major wage cheating cases and union-busting cases. I helped to stop the vile-practice of Nike forcing women workers to prove they were menstruating to get a legally guaranteed day off. I have pushed Nike to clean up sites where their scrap shoe rubber was being dumped and burned in villages, releasing harmful toxins into the air, water and soil. I have educated tens of thousands of students on Nike's labor abuses at more than 500 schools in more than 40 states. I have been brought to Capitol Hill to brief members of Congress on the issue as well as advised the heads of major corporations (including Nike) about the reality on the ground for Nike's overseas workers.

A towering blond, 40-year old Jim Keady's presence is a stark contrast to the group he has fervently defended for the past decade. Thousands of workers from a Nike plant in Serang, Banten province, have Keady to thank for a victory against their employer, who withheld overtime pay worth nearly \$1 million. Nikomas, a supplier for athletic wear giant Nike, has also promised to create a reporting mechanism for labor-related complaints in coordination with the National Workers Union (SPN). — Jakarta Globe February 6, 2012

This work has not been without risk. My apartment has been broken into; I have been tailed by investigators hired by Nike; I have been tailed by the Indonesian authorities; I had my life threatened at machete point in a Nike shoe rubber dump; I have had my car hijacked by "preman" (hired thugs); and in 2014 I was picked up, detained and questioned for two days and deported and banned from Indonesia for my labor rights advocacy.

Indonesian immigration deported an American activist for violating the use of his visa by participating in a labor protest on May Day. Jim Keady, an international labor activist, was sent back to his home country, the United States, after being questioned by officers on Thursday for



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his participation at a workers' demonstration outside Nike's offices in Jakarta on May 1. – Jakarta Globe, May 8, 2014

It is because of what I have shared above that I was completely shocked when on May 8, 2015, President Obama chose Nike's international headquarters of all places to talk about fair trade and labor rights and that the President held up Nike as a model for global trade in his push to gain fast track authority for the TPP trade deal.

PRESIDENT OBAMA, NIKE AND THE TPP

During his speech on Nike's campus, President Obama said, "The playing field is uneven. That puts American businesses and American workers at a disadvantage. So this question is, what should we do about it?"

The President had a perfect opportunity to put that question to Nike CEO, Mark Parker, who was sitting on the stage with him. He could have asked the following:

- Mark, what are we going to do about the fact that your company undercuts American companies by exploiting cheap labor in Vietnam? You pay your workers there the minimum wage and even the Vietnamese government has said that the minimum wage only meets 69-77% of one adults living needs.
- Mark, Nike has one third of your global manufacturing force (333,000 workers) in a country where it is illegal for workers to form independent trade unions. In fact, a worker just exercising their fundamental right to freely associate puts them squarely in the crosshairs of the oppressive regime in Vietnam. What is Nike going to do about this Mark?
- Mark, Nike made \$2.7B in profits last year. You can certainly afford to pay these workers more and you do not need a trade deal or a government decree to do that. So, why is Nike paying your factory workers in Vietnam a poverty wage Mark?

That would have shown leadership in standing up for workers in the global economy Mr. President.

President Obama went on to say, "America writes the rules of the global economy." No Mr. President, we do not. The rules of the TPP deal that you are currently pushing and for which you want fast track authority are NOT written by America. The rules are written by an elite group of leaders and lawyers from transnational corporations who have neither allegiance to our nation nor any real accountability to the people of the



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United States. Our duly elected members of Congress did not only not write the rules of the global economy and this pending TPP deal, but to date, our elected officials cannot even get access to the full text of the deal. So Mr. President, how exactly is "America" writing the rules of the global economy?

President Obama said,

So when you look at a country like Vietnam, under this agreement, Vietnam would actually, for the first time, have to raise its labor standards. It would have to set a minimum wage. It would have to pass safe workplace laws to protect its workers. It would even have to protect workers' freedom to form unions - for the very first time. That would make a difference. That helps to level the playing field - and it would be good for the workers in Vietnam, even as it helps make sure they are not undercutting competition here in the United States. So that's progress. It doesn't mean that suddenly working conditions in Vietnam will be like they are here at Nike.

This statement by the President is under-informed on multiple levels.

First, Vietnam already has a minimum wage they do not have to set one Mr. President. The Vietnamese government set a new minimum wage in January 2015. It ranges from VND2.420.000 - VND3.100.000 (\$111-\$142) per month. As noted above, it is a poverty wage and only allows for one adult to meet 69-77% of their basic needs.

The President noted the creation of safe workplace laws being created. What laws is he specifically talking about? And when/if these laws are established, who is going to monitor whether or not they are being adhered to? It is currently illegal for independent non-governmental organizations, foreign or domestic, to do this kind of research in Vietnam and the VGCL, the government-run trade union, is notoriously corrupt and has done little to date to protect worker-safety.

Perhaps President Obama is unaware that Chapter 2 of the 2013 Vietnamese Constitution is devoted to human and labor rights, just as earlier Constitutions were. However these rights are never implemented and their inclusion in the Constitution is simply to avert critical analysis by foreign governments and international civil society. The Constitution lists a wide range of human and labor rights, but government regulations nullify these rights as in the case of Articles 79, 88, and 258 of the Vietnamese Penal Code.



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So, how exactly is the Vietnamese government going to allow for workers to form independent unions? Let's assume that laws are passed (or repealed) that make it legal for workers to freely associate and to form independent trade unions. What resources are going to be brought to bear to help workers build the technical and tactical capacity to form these unions? There is currently zero infrastructure in place to make the forming of independent unions a reality. There is one marginally effective underground labor rights NGO, Viet Labor, operating in the entire country of Vietnam and their staff and resources would be stretched in attempting to organize workers at one Nike factory, let alone organizing the more than 2 million workers in the manufacturing sector alone. There are no international labor rights NGOs sanctioned to work in the country and there are certainly no international labor unions with solidarity operations on the ground in Vietnam. It is one thing to say that the Vietnamese government *"would even have to protect workers' freedom to form unions - for the very first time,"* it is another thing altogether to have a realistic plan in place to make this a reality.

Also, let's take the President at his word that the Vietnamese government is going to change course and allow for the formation of independent trade unions. Let's go a step further and assume that said independent unions miraculously emerge despite there being no infrastructure or financing to bring them about. What will happen if the unions begin to effectively do their job? For example, if the unions successfully lobby the Vietnamese government for an increase in the minimum wage to bring it more in line with a living wage so that workers no longer have to live on the margins in poverty - then, under the rules of the TPP deal as we currently understand them - Nike, the largest private employer in Vietnam, can sue the Vietnamese government for impeding its ability to maximize its profits.

The logic being presented by President Obama is - under the TPP, the Vietnamese government will allow for independent trade unions; the independent trade unions can push for better wages and working conditions; if the unions are successful in getting wage increases, Nike can sue the Vietnamese government for violating the terms of the TPP deal that supposedly established the framework in which workers had more freedoms but for which they are now being punished?

Clearly, President Obama needs to gain some clarity on what exactly is going on in Vietnam, and what is going on with Nike's operations in particular, since he is holding each of them up as important actors in this pending TPP deal.



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ON THE GROUND IN VIETNAM

While my work to date had been primarily focused on Nike's operations in Indonesia, I have kept abreast of stories emerging from Nike's operations in Vietnam and I was aware that the reality for workers there was grim. But given the President's comments on the Nike campus and that he was holding Nike and Vietnam up as examples of the need for fast track authority and as examples of the benefits of the TPP deal, I felt compelled to travel to Vietnam to gather first-hand information on the state of Nike's workers there.

During the week of May 25-31, 2015 I visited Vietnam with the goal of meeting with Nike factory workers as well as leaders of the underground independent labor, press and democracy movements. To complete the task, I partnered with the Saigon-based NGO, Viet Labor.

Free Viet Labor Federation (Viet Labor) is an alliance of labor groups inside and outside Vietnam, comprising: Viet Labor Movement, Vietnam Independent Union, and Committee to Protect Vietnamese Workers. Viet Labor's aim is for the affiliated groups to assist one another, and coordinate when necessary, to further their common aims: We want wages and conditions that fairly reflect our work and we want safe and sanitary working conditions. (www.laodongviet.org)

Below are our findings on Nike's operations in Vietnam.

Wages

During my week in Vietnam, I met with Nike workers whose monthly pay ranged from VND2.889.000 - VND4.667.000 (\$133 - \$214). What can a worker afford on this wage?

For a single adult, here is a sample breakdown of monthly expenses:

Room rental = 900.000VND
Utilities = 200.000VND
Propane gas for cooking = 100.000VND
Meals = 960.000VND
Drinking water = 50.000VND
Gasoline for a motorbike = 400.000VND

Total expenses above = 2.610.000VND

Note that the above expenses do not include daily incidentals (toothpaste, soap, etc.), nor do they include telephone, a backpack to carry things to work, clothes, shoes, etc. It is also important to consider that if workers have children, the cost to care for babies



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and young children ranges from 800,000 to 1.500.000VND per month per child. The sad reality is that many factory workers cannot afford to keep their children with them and are forced to send them back to home villages to be cared for and if they are lucky, only see them a few times a year.

Given the data above, it should not be surprising that workers report being out of money by somewhere between the 20th and 25th of every month and they go into debt to meet their basic needs.

While I was having a discussion about wages and Nike's ability to pay workers more with a group of workers, one worker commented, "We are all human beings." She then went on to ask me why it was fair that Nike's athletes and executives get so much and Nike's workers get so little?

She is right. Nike's workers are just as much human beings as Nike's highly paid athletes and executives. So, why aren't they treated as such and paid a living wage? Perhaps President Obama can ask Nike CEO, Mark Parker or Tiger Woods or LeBron James or Michael Jordan why they get paid so much and Nike workers get paid so little and grind it out in abject poverty?

Fear

Fifteen years ago when I began my research and advocacy in SE Asia with Nike factory workers, I wrote and commented extensively about the culture of fear among workers that Nike exploits to maximize their profits. Keep workers in a state of fear and they are less likely to organize. Keep workers in a state of fear and they are less likely to demand that their legal rights be respected. Keep workers in a state of fear and you can get away with anything you want in your drive to keep labor costs down and production quotas high. This has been Nike's formula for "success" to the tune of \$27B in revenues last year.

I thought that I had seen and heard the epitome of Nike's culture of fear during my fifteen years of work in Indonesia. But the bar has been reset in Vietnam. Not only are workers more fearful of exercising their basic human/labor rights, but they are 15-20 years behind Indonesia in having the infrastructure in place to allow them to accomplish this effectively. One labor rights advocate in Vietnam said to me, when speaking of Nike workers we were meeting with, "This is the voice of Vietnam. They are afraid. They are afraid to raise their voice."

A worker, in response to my asking her about the anger she has towards her manager for the way she is treated, said, "We have a mouth, but we can't speak."



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Another worker told a story of a friend, who was afraid to ask permission to go to the bathroom. She held it in as long as she could. When she finally mustered the courage to ask permission to go, she was told “no” by her supervisor. She eventually wet her pants on the line and was publicly humiliated by her manager after the fact.

Finally, another worker commented to me, “We are workers. We have no voice.”

Freedom to Associate/Independent Unions

There are no independent trade unions in Nike’s factories in Vietnam and workers attempting to form independent trade unions are dealt with harshly.

This is a clear violation of the spirit of Nike’s Code of Conduct that states:

To the extent permitted by the laws of the manufacturing country, the contractor respects the right of its employees to freedom of association and collective bargaining. This includes the right to form and join trade unions and other worker organizations of their own choosing without harassment, interference or retaliation.

It is obvious that Nike attempts to give themselves an out with regard to Vietnam in the first few words of the above paragraph when they say, “to the extent permitted by the laws of the manufacturing country.” Nike knows that it is illegal to form independent unions in Vietnam and that attempts to do so by workers are met with swift action by factory managers and government agents. Simply by setting up shop in Vietnam and having the largest majority of their products produced there (43% of shoes), Nike is saying that they do NOT respect workers rights to freely associate. Given Nike’s powerful position in Vietnam as the largest private employer in the country (330,000 workers), if Nike wanted independent unions in their factories, they could have independent unions in their factories.

Information Isolation

Both Nike workers and the small group of organizers that are attempting to educate and empower them are isolated from critical information. They have no resources on how to form and operate independent trade unions. They also have no understanding of their importance in Nike’s global supply chain. This information asymmetry that exists must end. If Nike’s capital and products are going to flow freely in and out of Vietnam, then a full set of information about Nike’s operations, finances, etc. must also flow freely to workers and labor organizers.



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Pregnancy/Childcare

One of the workers I met with was pregnant for 14 weeks. She was having difficulty and needed to take a 7-day medical leave. When she returned to work, she still did not feel well and requested an additional two days of leave. The factory management denied her the additional leave.

Another worker was pregnant and had a miscarriage and believes that it was related to her work at the factory.

Workers also reported that when women in the gluing section become pregnant, they are rightfully moved out of that section for health reasons, but they are placed in other sections where they have no training and it is extremely stressful for them to try and meet production quotas.

Finally, once pregnant women have their children, it is very difficult to care for them properly. The pregnant worker noted above reported that because she makes so little money working at the Nike factory, that when her baby is born, she will have to send the child to live with family back in her home village, a two-hour drive from the factory. Another worker shared that she has no money for childcare or for school for her two children that live with her. While she is at work, her 6-year-old and 9-year-old kids fend for themselves. She tries to home-school the children for an hour or so a day when she returns home from work. She said that at times, she has no money for food for the children and if the kids get sick, she's in trouble. She does not have enough money to care for or even feed her children despite the fact that she is churning out ungodly production quotas of Nike's products. This simply does not seem right given that Nike made \$27B in revenues last year.

Verbal Abuse

Workers shared that there is consistent and pervasive verbal abuse on the part of Nike's factory management and they reported feeling constantly humiliated and harassed. Much of the verbal abuse is resulting from workers struggling to meet unrealistic production quotas. When they cannot meet the quota, Nike's managers attempt to "motivate" them. One worker reported that along with the verbal abuse, she also had products thrown in her face while being berated by a manager.

Food Quality

Every worker that I met with during my week in Vietnam complained about the quality of the food being served at Nike's factories. To a person they reported that the meat smells rotten, at times the rice has bugs in it, and the vegetables are of the lowest



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quality. Workers also have VND11.000 per meal deducted from their pay each shift even if they choose to bring their own food and not eat the meal provided.

Forced Overtime

A worker from one of Nike's apparel factories reported that she is forced to work 30 hours of overtime a month. There are also months that she is forced to work more than 30 hours of overtime and she is not paid for anything above the 30 hours. This is both a violation of Vietnam's overtime laws and it is wage theft.

Another worker reported that Nike shoe factory workers are forced to work during their lunch hour without payment to catch up on production quotas. This is wage theft on the part of Nike.

Finally, a shoe factory worker reported that they are forced to begin their production shift five minutes early at times to catch up with production quotas. Five minutes may not seem like much, but when you do the math, five minutes of wage cheating for 12,000 workers at a factory = 1000 unpaid hours = \$530 per day that workers were not paid for work done. On a per worker basis, the financial impact may seem nominal, but if this happens a few times a month, at multiple factories, Nike is cheating their Vietnamese workforce out of tens, possibly hundreds of thousands of dollars of wages each year.

Nike's Code of Conduct

Nike's has engaged in a years-long campaign to promote the *Nike Code of Conduct* as a way of helping improve conditions for workers and protecting workers' rights at the plant level. They have utilized their vast public relations and marketing expertise to convince many in the media, as well as government officials, and investors and consumers that the code works and is adhered to in their factories. The reality is that workers in Vietnam, for the most part, are clueless about what Nike's code is and what it means. In at least one factory, workers reported that the code is not published anywhere and that they had never heard of it.

Prepping for a Nike Visit

Over the years, Nike has touted the work of their Corporate Social Responsibility division as well as the Fair Labor Association (a group they founded and fund) in documenting what is really going on in their factories. The problem is that very little of the data they are gathering reflects the daily reality for workers. Nike workers in Vietnam reported that prior to a Nike visit they are prepped on memorizing their rights as a worker and told to only give answers to the monitors based on what has



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been memorized. Workers also shared that production quotas are lowered to a reasonable level during Nike visits in an attempt to show that the factories are treating workers well. Finally, workers reported that prior to a visit by Nike's monitors, factories are cleaned from top to bottom to present a very different reality than what workers face on a daily basis.

CONCLUSION

The Obama Administration has attempted to utilize Nike and Vietnam in their push for fast track trade promotion authority and ramrod the Trans Pacific Partnership trade deal in Congress. In light of the information provided above it is obvious that Nike should not be used as a model for trade. In fact, Nike represents everything that is wrong with trade in the global economy. It is also obvious that prior to any trade deal being struck with Vietnam that the regime there must be held to account and must make wide-sweeping reforms before they are allowed to be in full partnership with the United States.