

May 2007

Accountability for Murder in the Mquiladoras: Linking Corporate Indifference to Gender Violence at the U.S. Mexico Border

Elvia R. Arriola

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/sjsj>

Recommended Citation

Arriola, Elvia R. (2007) "Accountability for Murder in the Mquiladoras: Linking Corporate Indifference to Gender Violence at the U.S. Mexico Border," *Seattle Journal for Social Justice*: Vol. 5: Iss. 2, Article 29. Available at: <https://digitalcommons.law.seattleu.edu/sjsj/vol5/iss2/29>

This Article is brought to you for free and open access by the Student Publications and Programs at Seattle University School of Law Digital Commons. It has been accepted for inclusion in Seattle Journal for Social Justice by an authorized editor of Seattle University School of Law Digital Commons.

**Accountability for Murder in the Maquiladoras:
Linking Corporate Indifference to Gender
Violence at the U.S.-Mexico Border**

Elvia R. Arriola

Claudia Ivette-González might still be alive if her employers had not turned her away. The 20-year-old resident of Ciudad Juárez—the Mexican city abutting El Paso, Texas—arrived at her assembly plant job four minutes late one day in October 2001. After management refused to let her into the factory, she started home on foot. A month later, her corpse was discovered buried in a field near a busy Juárez intersection. Next to her lay the bodies of seven other young women.

The “maquiladora murders” have become a popular subject for writing and activism by feminists, as well as the inspiration for numerous forms of art, literary fiction and commentaries, international conferences, movies, and marches on both sides of the border. A 2004 conference held at the University of California-Los Angeles entitled “Maquiladora Murders” drew worldwide attention to the cases of hundreds of young Mexican women who worked in maquiladoras—American-owned transnational factories—and met untimely, often brutal deaths. Who killed them is still a mystery. What is not a mystery is that incidents of domestic violence and femicide in Ciudad Juárez have risen in the wake of heavy industrialization along the border; that industrialization was a result of the signing of the 1993 North American Free Trade Agreement (NAFTA) between Mexico, the United States, and Canada.

In less than a decade, a city that once had very low homicide statistics now reports that at least 300–400 women and girls were killed in Ciudad Juárez between 1994 and 2000. Some of the murders fell into a bizarre serial killer pattern. Others were suspiciously linked to illegal trafficking gangs. Still others involved abductions of young, female maquiladora workers who never made it to or from work and whose bodies were later found dumped in Lomas de Poleo, the desert that surrounds Ciudad Juárez. They had been raped, beaten, or mutilated.

To be fair, the reference to “maquiladora murders” is a misnomer; not all victims have been workers for the vast number of American companies lining the 2,000-mile border that secures an interdependent economic bond between the United States and

Mexico. However, while the exact number of victims is still unknown, of the estimated 300–400 unsolved murders, about one-third involved maquiladora workers. Mexican government officials have not appreciated the negative press surrounding their largest export-processing zone and symbol of participation in the global economy. And the public has not been happy either, confused by seemingly bungled and incompetent investigations. The lack of coordination among public authorities has only worsened the perception that the government is either too corrupt, indifferent, or incompetent to address the problem of systematic violence against women.

In Mexico, the maquiladora worker is typically someone with little education or property, and is often a migrant from even poorer regions of the country that now hosts a conglomerate of factories owned by European, American, and Japanese multinational corporations. Thousands of workers in these factories eke out sad lives in shantytowns without water, electricity, or public lighting. The most recent arrivals to the Mexican *frontera* find cities that are unable to meet their housing needs. Dozens of families may stake out plots of land near public utilities or industrial parks where they pirate essential public services and live in shacks made of sticks, cardboard, rags, or discarded construction platforms. Some even make their homes next to trash dumps.

Public discourse on the Juárez murders intensified after the 2002 release of the documentary *Señorita Extraviada* by former Juárez resident and filmmaker Lourdes Portillo. The documentary opens with various shots of factories bearing the names of familiar American companies that sell U.S. consumers everything from cell phones to televisions, stereo equipment, computers, electrical appliances, and toys. Juárez is portrayed as Mexico's symbol of the failed promises of free trade; in what activists refer to as the "race to the bottom" of the wage scale, investors compete globally and reap huge profits by creating new low-skilled and low-paying jobs for the working classes.

Although a political and economic context is critical for grasping the breadth and depth of the gender violence that accompanies globalization, the film does not dwell on this context.

Instead, *Señorita Extraviada* portrays Juárez as a city out of control, unable to respond to violence against poor working women. Highlighted are images of indigent, powerless, and grieving families confronting law enforcement and political systems that systematically fail them. The violence of poverty, graphically portrayed in *Señorita Extraviada*, generates rage and fury as the camera pans over crime scenes littered with the shoes, clothes, and jewelry of a girl's naked, bruised, or mutilated body discovered weeks after her disappearance. In another scene, a coroner confirms that one of the victims in a dual murder case had suffered several massive cardiac arrests as a result of the terror she and the other young girl had experienced in their final moments of life. Each story of grief produces waves of sorrow that spread over the families, the city, and the lost image of the characteristically family-oriented Mexican culture.

The bungled forensic efforts reinforce the violence against the young murder victim who left the house one day and never came

young murder victim who left the house one day and never came home, leaving behind a family desperate for answers and comfort from their community leaders. The film highlights some of the outrageous official responses to the murders. For example, the governor of the State of Chihuahua is shown publicly criticizing the murder victims for the way they dressed or for attending night clubs, thus blaming the victims for their fate and turning the demand for investigations into a mockery of justice. After public outcry, the State appointed a female special prosecutor. However, the State then failed to provide her with sufficient power or money to produce satisfactory leads.

While *Señorita Extraviada* portrays the problem as the systematic failure of law enforcement and the political system, Diana Washington-Valdez, the reporter who has relentlessly tracked the murders since the early nineties, argues that true justice for the maquiladora murder victims may never come because rampant corruption and secrecy surround efforts to track down the persons responsible for the most chilling serial or ritualistic type killings.

Yet, an important factor is constantly overlooked in the public discourse about the Juárez murders. Few seriously examine the relationship between systematic violence against women and the changes in the social environment of the city that allows such violence to occur. Along Mexico's border, and especially in Ciudad Juárez, many changes have resulted from the rapid industrialization produced by Mexico's intense participation in the global economy. The unspoken element of the discourse is the multinational corporations' complicity with Mexican officials in disregarding the health, safety, and security needs of Mexican women and girls who work in the maquiladoras. Multinational corporations come into Mexico, lease large plots of land, run their factories twenty hours a day, pay no taxes, and do very little to ensure that the workers they employ will have a roof over their heads, beds to sleep in, and enough money to feed their families. Juárez, like many other border towns affected by NAFTA, may have factories and cheap jobs, but such employment has not enhanced peace and prosperity among the working classes; instead, hostility against the poor working women—who form the majority of those employed by the maquiladoras—has intensified.

To the activists who advocate for justice in the maquiladoras, the undeveloped point that surrounds the phenomenon of the murders is the fact that the very girl whose body was found mutilated and dumped had worked hard, very hard, in one of those factories. She was trying to improve her lot in life, as well as that of her family, and no one, not even her own government, cares to take responsibility. What about the fact that the same attitude about the murders—"we are not responsible"—is also reflected in employment policies that encourage indifference to the workers' needs and human rights, whether in or out of the factories?

I argue that the Ciudad Juárez murders are an extreme manifestation of the systemic patterns of abuse, harassment, and violence against women who work in the maquiladoras—treatment that is an attributable by-product of the privileges and lack of regulation enjoyed by the investors who employ them under the North American Free Trade Agreement. I begin by

acknowledging the critical relationship between women, gender violence, and free trade that has been noted by some scholars.

But I also seek to understand how the absence of regulation to benefit workers in standard free trade law and policy perpetuates the degradation of maquiladora workers and creates environments hostile to working women's lives, including discrimination, toxicity in the workplace, and threats of fatal assault. Noted feminist reporter Debbie Nathan rightly criticized *Señorita Extraviada* for its failure to highlight the presence of the maquiladora industries and their power to set standards of worker treatment that encourage general hostility against poor working women. The unquestioned right to exploit the mostly female working poor in Mexico, combined with the effects of rapid industrialization, incites increased gender violence while securing Mexico's significant role in the globalization of the economy at the U.S.-Mexico border.

In section I of this article, I present the argument, also made by activists at the border, that the Juárez murder phenomenon is a story about systematic abuse and violence against working class employees, which includes exposure to toxicity in their workplace, sexual harassment, and arbitrary disciplinary methods. This systematic abuse is the result of investor privileges, guaranteed under NAFTA and repeated in The Central American Free Trade Agreement (CAFTA), that virtually immunize the transnational investor from accountability for harm to the worker, anticipated or not, when conducting business in Mexico.

In section II, I illustrate the legal framework for addressing the questions of accountability that often arise when one is confronted with the realities of systematic violence against women in places like Ciudad Juárez and other locales that are newcomers to globalization.

In section III, I return to the stories of workers at the border with a focus on individual efforts by workers to bring about justice in the maquiladoras. Although it is important to improve economic globalization analysis with attention to women's experiences and struggles, it is also important to transcend the essentialist image of all poor working women as victims. Many workers in global factories do not passively sit by, accepting the attitudes of indifference crafted into free trade law and policy and taken advantage of by some companies. There is much that is wrong with current free trade policy and law that could be changed with amendments to NAFTA or CAFTA, or through litigation involving statutes targeting corporations as actors under the color of law. But even without those changes some Mexican workers have found ways to empower themselves, like the legendary David against the giant Goliath corporation, by organizing and protesting to have their rights enforced against abusive employers.

In section IV, I remind the reader that the phenomenon of the Juárez murders is inseparable today from the various forms of systematic abuse against mostly women workers who have populated the American factories since the pre-NAFTA days of industrialization at the Mexican border. Given the enduring fact that more women than men work in the factories, and the extreme example of abuse of women symbolized in the systematic killings of women and girls who are part of the city's

systematic killings of women and girls who are part of the city's most poor and powerless, I make an appeal to the feminist activists who are busily creating awareness about the murders. I urge them to take more seriously the issue of the social and economic context of the Juárez murders, so as to influence the shaping of improved public policies that can remedy the gross absence of regulation for corporate accountability and true protections of working women's rights under free trade law.

I. BEAUTY AND PAIN: GLOBALIZATION AND THE WOMEN OF THE MAQUILADORAS

A. *Gender and Globalization at the Mexican Border: Before and After NAFTA*

Globalization has its fans and its critics. To some, like *New York Times* columnist Thomas Friedman, it is the way of the future, where people of different nations and cultures will interconnect easily through the Internet; markets and democracy will flourish; and all things stodgy, inefficient, and dictatorial (e.g., communism, Saddam Hussein) will fade away. Others are more cautious, calling for better regulatory oversight by the International Monetary Fund (IMF) and other financial players in the politics of free trade. Still others see a deadly combination for nations whose transition to market economies and democracy is too quick. Most contemporary globalization talk, including that at the conference that produced this article, focuses on the economic theories that either support or weaken the argument for it, such as free trade, capitalism, privatization, deregulation, and the relationship between market growth and social instability in new democracies. Those who view gender and global trade as crucially related are still in the minority in academic discourse.

There is irony in knowing that females continue to dominate as ideal workers in export processing zones, while females are also the consumers most often targeted by ad campaigns to buy the goods coming from these exploitative zones. Feminist scholar Carla Freeman argues that globalization discourse is "bereft" of gender analysis because it is hard to connect the "global" with women's stories and experiences or women-based movements for socio-economic change. The problem may be that overall globalization politics appear loaded with masculine power and focus, and so the only way to see gender is to move away from the global to the local. There, in either production or consumption, one will see gender at work.

Women, especially poor women, continue to play a significant role in the work of global employment. American companies have been relocating to Mexico since 1965, and with the signing of NAFTA, cross-border trade has expanded with new factories being built and jobs created. However, fewer rights for workers at the Mexican border have been guaranteed. As the working women's group, Comité Fronterizo de Obreras (CFO), wrote in their 1999 report *Six Years Under NAFTA*, free trade had failed them. Under NAFTA, wages and working conditions for maquiladora workers had gone from bad to worse.

One of the first systematic observations of the relationship between gender and the setup and operations of the maquiladoras at the Mexican border was a study, *La Flor Mas Bella de las Maquiladoras*, by feminist researcher Norma Iglesias Prieto. In her landmark study, Prieto sought to illustrate

Iglesias Prieto. In her landmark study, Prieto sought to illustrate “a global phenomenon,” encompassing both the maquiladoras and the life experiences of workers. She relied upon the voices of experience from inside the factories in the pre-NAFTA period to illustrate how gender-based attitudes affected everything from recruitment and hiring (nearly 100 percent women) to the treatment of women in the workplace. When American electrical, television, and stereo component companies, such as GE, Sony, and Panasonic, began relocating to Mexico, women were blatantly preferred for the jobs. Why? Women were seen as ideal workers because their smaller hands and fingers could better assemble tiny parts of export goods, such as light bulbs, cassette tapes, and recorders. The ideal maquiladora worker that emerged was thus a hybrid of stereotypes based on sex, race, and class—she was not only more docile and passive than Mexican men, but submissive, easily trainable, and unlikely to pose problems with union organizing.

Not much changed under NAFTA. Women have remained a higher percentage of the workforce: a younger woman in her teens is still preferred to an older, wiser, and more tired woman who is likely to question the bad pay and treatment or, even worse, may try to organize workers. Prieto concluded that in the pre-NAFTA period, it was clear that the main purpose for the poor treatment of the workers and low standards was to secure an easily discardable “reserve army of labor,” rather than to offer career jobs or stable employment. Post-NAFTA, the workers confirmed the continuation of these policies; the CFO wrote that NAFTA had caused “. . . a sharp drop in the standard of living; a marked intensification of the labor process through speed-ups and other tactics, and a sustained campaign to undermine unions, labor rights and social protections.”

The report concluded that other long-standing problems identified with the maquiladora industries, such as child labor and exposure of workers to toxic industrial waste, still plagued the border region. Other blatantly sexist practices, like forced pregnancy testing, only stopped after international exposure of the practice.

B. Where the Violence Leading to Murder Begins—The Voices of Experience from Inside the Maquiladoras

In 2000, I visited the city of Piedras Negras, Coahuila, and met members of the Comité Fronterizo de Obreras and their coordinator Julia Quiñonez Gonzales, a former maquiladora worker turned activist. I had just published an academic study about the maquiladoras relying heavily on Iglesias-Prieto’s work, and that of Devon Peña, to capture the workers’ voice of experience under NAFTA. I joined a delegation that was led by a new group calling itself Austin Tan Cerca de La Frontera (So Close to the Border), which formed after members heard the personal testimonies of several maquiladora workers who had come to share their experiences with local activist and faith-based community groups. Having just concluded my border study, it was a profound experience to see my research come to life and to meet someone whose testimony I had cited from an international women’s rights conference. I was introduced to workers in their homes and listened to them describe bad pay, bodily injury from stress, long schedules, lack of safety,

exposure to toxic chemicals, and feelings of betrayal by unions who took management's side.

Over the next few months, I visited several other cities where the CFO had volunteers and began to meet privately with primarily female workers and listened to them relate their experiences in the maquiladoras. I sometimes met workers in their homes, which were uniformly tiny and clean, but often without flooring, plumbing, or any electricity other than a single light bulb. "Fatal indifference" is the only way I can articulate the totality of the patterns described by the workers—a systematic, structural disregard by corporations and their agents for the humanity of the laborer. It is from this perspective that I argue, along with the activists, that the phenomenon of the Juárez murders begins with free trade law's license of a form of corporate activity that exploits the bodily and spiritual strength of a poor country's people. However, the workers' stories also revealed an amazing courage and strength to survive abusive patterns of worker mistreatment and discipline.

1. The Unbearable Pace: "I Tolerated Them for a Total of Eight Years"

Amparo was thirty-eight years old and raising two teenage boys when I interviewed her in Piedras Negras, Coahuila. She was desperately trying to keep the older boy in school so that he might avoid the destiny of the working poor—beginning work in the factories at age fifteen and working ten-hour days, on average, for little pay. Amparo had been fired for being outspoken about the poor treatment of workers at Dimmit Industries, which is now defunct. Amparo was hired at Dimmit to sew waistbands onto a minimum of twelve hundred pairs of expensive dress slacks per day in order to receive the base weekly wage of three hundred pesos and two hundred pesos in bonus (about thirty-five dollars per week). To earn a salary on which she could live, she pushed herself to produce 150 percent of the expected quota, or about eighteen hundred slacks per day, for approximately six years.

Amparo recalled that every day she walked out with a blackened face full of lint and dust left in the factory air due to the poor ventilation system in the plant. A common complaint of the workers was the lack of adequate ventilation in the cheaply built, windowless warehouses that were set up for factory operations. She remembered the terrible coughs she endured almost all of the time as a result of the fibers, distinctly visible in the surrounding air, settling on her skin and in her lungs. She also had to endure the exhaustion of the typical ten- to twelve-hour shift with only a half-hour break for lunch and a ten-minute break in the morning. "I first thought, that's just the way working conditions are here at the border. In time I began to see the injustices here." Amparo was one of five workers who had filed an unfair labor practice charge against Dimmit after she was fired for complaining about the piecework policy that kept the wages so low. Amparo knew she was in for a long haul by filing a claim, but she said it was worth it because, "I've tolerated them for eight years."

On that same trip, I met Juanita Torres, who had also been fired from Dimmit as a "troublemaker" who was trying to organize new elections for a better shop steward, one who

organize new elections for a better shop steward—one who would not consistently side with the management. Others I spoke to also confirmed a pattern of abusive treatment. “Cuca” Torres, Juanita’s sister, said, “They yell at us to hurry up,” referring to the line supervisors. Cuca was working for Littelfuse Co., which employed mostly women to assemble thousands of light bulbs and fuses per day in the kind of factory Prieto had described in her study. Young Marina Briones, who was working for one of the many ALCOA factories in Piedras Negras, said, “The typical workday [of ten- to twelve-hours] is so long that I come home too tired to do any housework or to talk to anyone.”

2. Miserly Wages in Return for Exposure to Toxicity

Those who study, write, and think about globalization often understand at an abstract level that the pay is low, the working conditions are bad, and the workdays are long. But few ever confront and absorb in detail the depth and breadth of the physical, mental, and emotional pain the workers experience in the maquiladoras, unless they can hear it from a worker. “I can never wear open shoes and in hot weather I must have on cotton socks to prevent the humidity from encouraging the fungus to reappear,” said Maria Elena Garcia, a woman who, when I met her, had just begun to organize for the CFO in the city of Reynosa, Tamaulipas.

Maria Elena offered this story when I told her that I had come to learn more about the health effects of working in the maquiladoras. As we spoke she pointed to dark scar tissue mostly on the top of her feet—old scratch marks and evidence of once-ruptured skin that she referred to as the symptoms of an unexplainable fungus. It was an infection that had broken and rotted the skin so badly “that my own brothers and sisters would tell me to stay away from them because of the awful smell.” The doctors concluded that the condition, which lasted for a year, was so bad that if she did not find a remedy and did not stop working in the environment that had obviously contributed to the infection, she would lose her feet to gangrene. Her mother told her, “Although I appreciate the help from your working, I don’t want you to lose your feet.” Maria Elena quit the job she had held for over two years—assembling one section of seatbelts all day long—during which time she was exposed to fine chemical dust particles in the strap fabric. Those particles caused her serious foot condition, a condition for which there is no permanent cure.

Maria Elena’s condition is only too common among workers. A variety of illnesses and conditions, including back problems, carpal tunnel syndrome, asthma, and disabling allergic reactions, typically accompany the privilege of working in a maquiladora. I recall the interview with Raquel Mendoza, who was fired along with her sister, Norma, from the Dimmit Factory in Piedras Negras. During the interview, Raquel remembered when she developed a severe bladder infection due to a lack of bathroom access—workers were fined or reprimanded for “abusing” the privilege of going to the bathroom during their time in the assembly line. “I had learned so well to ignore my need to go that now I could not go.”

Juanita Torres also told how it was standard for employers to

deny work-related injuries. It costs employers to have them qualify for government disability programs, so they encourage workers to use company doctors whose tendency is to minimize any harm because of the potential liability employers face for occupational hazards under the federal labor law. On one occasion, an in-house medic denied that it was the chemicals in a particular pant fabric that had caused Juanita an upper body rash.

On another occasion, she cut her finger on a machine, a frequent problem for workers because it was on “speed up”—a setting used by managers to increase a machine’s output to pressure workers to maintain a specific, hurried pace. That time it was a medic at the government clinic for workers, “Seguro Social,” who botched the treatment and suggested the easy remedy of amputating her finger when she complained that the wound was not healing properly. Juanita said that she ran out crying, quit her job, and eventually healed her finger with home herbal remedies.

Some workers suffer injuries or spontaneous abortions in the workplace because occupational hazards, such as exposure to toxic chemicals or fumes, are given such low priority. On my visit to Ciudad Acuña, Pilar Marentes gave me a news article describing a recent chemical spill that had affected several women who were told to get back to work despite the fumes. It was just like the story of Paty Leyva of Piedras Negras, who teared up when I began to ask questions about the health effects of maquiladora work. While talking about the stressful schedule, Paty remembered a miscarriage she attributed to the work pressures and constant exposure to toxic solvents at her job.

3. Low Priority on the Maquiladora Owner’s Agenda: Basic Worker Safety

As previously noted, the percentage of female workers in maquiladoras is higher than that of males, but gender stereotyping accounts for a greater percentage of men in the automotive assembly factories. The same weekend I met Pilar Marentes, I met Nicolás. Nicolás built auto dashboards and, along with several dozen other workers, was trying to confront ALCOA management about a promise for medical care. This followed a report from the company during the nineties that Nicolás and other workers had been exposed to a highly toxic chemical, referred to by the acronym MOCA. Nicolás said that his great fear, as he showed me photos of his children, was that he and his wife had conceived the children during the period of exposure.

In October 2006, I led a delegation of law students interested in learning more about the effects of NAFTA from a human perspective. On this trip, we met workers in Reynosa, Tamaulipas (which borders McAllen, Texas) whose stories offered us insight into the systematic indifference to workers’ humanity in the maquiladoras. Workers from the Emerson factory, which manufactures Maytag Co. washer and dryer motors and employs about 11,000 workers, complained to the CFO about the total lack of safety precautions in the factory.

Cuts and injuries on the job are frequent. A worker at this meeting, who was on crutches, explained that a safety latch on the assembly line loosened one of the motors and it came crushing down on his leg. He did not receive proper medical

crashing down on his leg. He did not receive proper medical care because the company diverted him to their doctor. The group described how another worker lost part of his finger because a safety latch broke and came down on his hand—the mechanic on duty was out and it was over an hour before his hand was dislodged. Doctors were unable to save part of the finger due to the delay in removing his hand from underneath the heavy machine.

C. NAFTA: Setting an Agenda for the Global Factories of the World

The maquiladoras thrive on the structure of a work week designed to produce the highest levels of output. In the United States, the corporation that has factories at the border is likely to operate on the unchallenged standard of the forty-hour work week. However, in the maquiladoras, the average is likely to be five to ten hours longer and not only avoids the schedule originally imposed by the Fair Labor Standards Act, but also creates a work culture that sees no problem with ten- and twelve-hour shifts, no overtime pay, and, in some factories, only one day off per week.

In the delegation I led in October 2005 to Piedras Negras and Ciudad Acuña, we met and heard from Angela, who had arrived from Veracruz seven years earlier. She earned seven hundred and fifty pesos (about seventy-five dollars) per week at the ALCOA factory and felt grateful not to have to work weekends.

She said that her daughter was earning much more, about nine hundred and fifty pesos per week (about ninety-five dollars), but she had to work twelve-hour shifts, six days per week. With this kind of schedule, her daughter was forced to pay for childcare and rely on Angela's help on Saturdays. And supervisors made it clear that with the exception of one half-hour for lunch and two short breaks, all time in the shop was work time. One worker stated in an earlier published study: "It's really unreasonable because we work from 7 a.m. to 5:30 p.m., Monday through Friday. To arrive on time, I have to get up at 5 a.m., and at that hour you really don't feel like eating. At 9:30 they give us 10 minutes for breakfast, and half an hour for lunch at 1 p.m." The patterns of working conditions in the maquiladoras remain unchanged.

Global employment, whether in Mexico or elsewhere, falls into a familiar pattern—one where the policies of worker treatment emphasize rapid production, not worker health and safety or improved living conditions. As some critics note, the new wealth that comes with free trade often benefits a tiny privileged minority—not the general population of the poorer country. The creation of another export processing zone generates systems of employment and discipline designed to turn the "lazy," unskilled worker into an efficient object of production. Who the workers are, what they think, and how they feel about production methods, assembly, and export are not only irrelevant, but can also be a source of trouble. Caring about people does not factor well into a business driven by commitment to the bottom line, or a cost-benefit analysis. If production is more important than people, then so is making sure that workers show up on time. When having workers show up on time is more important than their quality of life, then early

work hours are the norm, as well as twenty-four-hour, seven-days-per-week operations.

Pilar Marentes and I talked about this as we discussed the issue of the Juárez murders in 2000. Pilar said that safety is always an issue for the poor who must rely on the bus to get to and from work. She further speculated that the Juárez killer was a bus driver for a factory. She said the bus drivers drive around at all hours and stick to a certain route, so at “whatever block nearest to their home is where [the workers] get off. Sometimes it is three blocks . . . so for those three blocks, no one is protected because they are alone.”

On all of my trips in 2000, 2001, and after, I have heard the same stories about the work schedules: ten- to twelve-hour shifts, people getting off work at all hours of the morning and night, and women getting up in the dark of morning to get children ready for school and themselves for work, worried they might miss the company bus that delivers them to remote job sites. A common fear among workers was losing a day’s pay if they came to work late, or being charged penalties on their paycheck for “abusing” the bathroom privilege during work hours. The stories told of threadbare existences—people living in shacks, no running water, rough outhouses, dirt floors, and children exposed to all sorts of treacherous conditions because of unpaved roads and lack of street lighting. Children start working young because they begin to understand that their parents are working and that there is never enough. This means that children are leaving home at six and seven in the morning and walking either to or from work in the dark, or in dangerous conditions. For instance, two boys drowned after heavy rains and flooding in Ciudad Acuña because they walked home late at night after leaving the grocery store where they carried bags for mere tips. Where poverty is the norm, so too is the violence of poverty.

The disciplinary methods, the production quotas at any cost, the speed-ups and injuries, the punishments for using the bathroom during work time, and the exposure to dangerous instruments or chemicals all flow directly from the signal by company owners and their agents to supervisors and managers that (1) workers’ lives are less important than production schedules, and (2) the safety of workers is yet another cost that disturbs the projected return on investment.

Therefore, employee protections, such as adequate safety gear for employees who must work with toxic chemicals, lighting around the factory, and security for workers, are not as important as making sure workers do their tasks, supervisors meet the production schedule, and goods are exported and released into the stream of commerce, generating consumption and profits that will ultimately line the pockets of the owners and shareholders.

These are the consequences of the privileges and rights enjoyed by employers under free trade law and policy. It is a policy that does not care about workers, much less about a young woman like Claudia Ivette Gonzales, who was disciplined for being late to work by being told she must go home and would not earn a day’s wage. In the world of corporate privilege, it does not matter that a young girl might be sent home in the dark because discipline for the “lazy irresponsible”

in the damn, because discipline for the lazy, irresponsible worker is deemed more important than her life and physical safety. She is, after all, an insignificant cog in the wheel of production.

Even the corporations that own the maquiladoras see their employees as mere cogs in the wheel of production. Therefore, when the Lear Corporation was asked by a reporter from *Salon* magazine about the lack of security for workers like Claudia (who was sent home and later found murdered), it responded, “The murder didn’t happen on company property.” Technically it did not. But a policy of fatal indifference to her safety and that of other similarly situated workers was already in place and enforced on the day of her disappearance. Legally they may not have been directly responsible for the abduction or murder, but morally?

In recent years, critical race-feminist scholars have argued that the discourse of human rights is missing a gender analysis. Traditionalists view human rights as confined to matters like racial or ethnic persecution and torture. Arguments that sex discrimination and gender violence are also a human rights concern are viewed as suspect or as improper attempts to export cultural values. Yet, the Juárez murders are being viewed internationally as a grave human rights problem for Mexico. In contrast, Mexican government officials, such as the Governor of Chihuahua, resist these critiques with classic defensiveness—blaming the victims for their dress, or referring to working girls that frequent bars and clubs as immoral. They seem to think it is better to invoke sexism than to admit that the murders reveal a masculine attitude of power, subordination, and fatal indifference to the health and welfare of poor working women. When corporate rights are made superior to workers’ rights, the activists for justice in the maquiladoras naturally see the Juárez murders as a mere continuation of how they are treated as employees.

II. CORPORATE ACTIVITY AT THE MEXICAN BORDER AND QUESTIONS OF ACCOUNTABILITY

Stories from workers in factories at the border disturb the abstract discourses on free trade and mutual economic benefits that supposedly flow from a free trade agreement. The language in NAFTA reveals a skewed set of policies—more rights for the investor than for the worker or migrant laborer. The imbalance explains why it is so difficult for corporations to be held accountable for their harmful activities in foreign countries. In this section, I address the legal framework of corporate accountability by exploring the use of the law to improve workers’ lives, and consequently women’s lives, under free trade law and policy. NAFTA, after all, was not easily passed.

The North American Agreement on Labor Cooperation (NAALC) was a result of public pressure to do more for workers’ rights. Though the enforcement mechanism can be frustrating and long, the NAALC may hold some promise as an organizing tool for the workers, if not a tool for awarding actual remedies (for wrongdoing). Public awareness that corporations abuse their privileges in other countries has generated considerable literature on the possible legal theories that might be used to make the corporate actor accountable under U.S.

domestic law, international law, or under the law of the host country. In this case, it would be Mexican tort law. The next section briefly explores these options.

A. NAFTA'S Labor Side Agreement: The North American Agreement on Labor Cooperation

The NAFTA complaint process is purely administrative. Still, workers might find it a powerful organizing tool, as it can be used to present evidence and personal testimony about the problems they face that are illegal under existing labor or health and safety laws. "NAFTA complaint" is actually a term of convenience that refers to invoking provisions under the NAFTA labor side agreement, the NAALC, under which the parties to NAFTA (the United States, Canada, and Mexico) promised the improvement of "working conditions and living standards in each Party's territory." The best way to understand a NAFTA complaint is to see it as a reminder to the party nations that they promised to treat workers fairly in pursuit of free trade and open economic borders. Because it is about labor cooperation, the hearings that occur under the NAALC process are public and theoretically open to the citizens of any country that has signed NAFTA. The following will provide only a bare sketch of the process. It is a process which is extremely technical, convoluted, and not designed to generate actual remedial measures to make injured workers whole.

In theory, the matters that could be part of a complaint under NAALC include:

- (a) freedom of association and protection of the right to organize;
- (b) the right to bargain collectively;
- (c) the right to strike;
- (d) prohibition of forced labor;
- (e) labor protections for children and young persons;
- (f) minimum employment standards, such as minimum wages and overtime pay, covering wage earners, including those not covered by collective agreements;
- (g) elimination of employment discrimination;
- (h) equal pay for men and women;
- (i) prevention of occupational injuries and illnesses;
- (j) compensation in cases of occupational injuries and illnesses; and
- (k) protection of migrant workers.

Filing complaints under the NAALC is not like filing a lawsuit. While workers may be complaining about toxicity in the workplace, repetitive tasks that cause them severe disabling conditions, arbitrary production schedules, ridiculously low pay for incredibly long hours, or harsh (and high-risk) penalties for lateness, nothing about the NAALC complaint process really brings the corporation under scrutiny. Instead, if a maquiladora worker, or group of workers, is able to lodge a complaint, it is directed at Mexico. The complaint is filed before an agency known as the National Administrative Office (NAO) in Washington, D.C. Hearings can be held anywhere outside of Washington D.C. The NAO conducts its own investigation and then issues a report of findings on whether or not Mexico properly enforced its relevant labor, health, and safety standards.

The labor side agreement has not been received well by labor activists. It creates a labyrinth of procedure that sets no specific standard for enforcement, but instead merely asks the signed parties to enforce their own laws and tells interested parties to go to their appropriate local agencies for enforcement. Then, even if an NAO hearing produces a report that the host country violated NAFTA and NAALC by not sufficiently enforcing the laws, the “remedy” is a fine that may not exceed .007 percent of the total trade in goods between the countries in the most recent year of which data is available. The fine is to be spent on enforcement of labor laws in the country against which the complaint was filed.

The *Custom Trim/Auto Trim* case is one of the few in-depth actions that progressed through all levels of the NAALC procedure and was filed pursuant to the NAFTA labor side agreement, NAALC, on behalf of workers. The case was brought on behalf of dozens of workers in auto parts assembly factories in the Matamoros/Brownsville region along the Texas/Mexico border. Professor Monica Schurtman, a clinical professor at the time with the Social Justice Center at St. Mary’s University School of Law in San Antonio, Texas, gathered the assistance of student attorneys and activists through the Coalition for Justice in the Maquiladoras to supervise the writing and filing of the more than one hundred-page complaint to the NAO.

The complaint invoked everything from relevant Mexican labor law to applicable international agreements, and charged various Mexican labor related agencies with failure to conduct legally mandated inspections relating to occupational health and safety; failure to enforce various laws regulating the use of chemicals, glues, and solvents that were the cause of specific worker injuries; and failure to inform and train workers about the health risks associated with exposure to various chemicals in use at the workplace. It also invoked the application of Mexican federal labor law and other Mexican health and safety statutes that apply to sanitation in the workplace, and it required diagnosis and treatment of work-related injuries. However, the complaint failed to force the Mexican government to impose sanctions on the employer—the Auto Trim and Custom Trim Breed Technologies Mexicana company that was operating in the Brownsville/Matamoros region of Texas.

Professor Schurtman recently summarized the proceedings that followed filing the complaint, including a series of ministerial consultations and resolutions to create an intergovernmental working group to discuss the exact same deficiencies identified in the hearing, the NAO report, and the workers’ complaint. She concluded that:

[T]he labor ministers of the NAFTA countries have failed to address workers’ complaints directly, ignored worker recommendations to enhance enforcement of existing occupational health and safety laws, and neglected to take remedial measures. The labor ministers have also declined requests by workers and non-governmental organization’s (NGO) petitioners to have a voice in the intergovernmental discussions prompted by

[the complaint].

The NAFTA/NAALC/NAO procedure for workers presents a strong contrast with the rights and remedies for investors under NAFTA. NAFTA never included workers' rights language; NAALC tells the host government simply to enforce existing law. The infamous Chapter 11 of NAFTA, however, permits a corporation to sue for compensation when another government's regulatory conduct is deemed "tantamount to expropriation."

Not only does this reflect an anti-regulatory sentiment in NAFTA, it seemingly protects corporate activity and profit at any cost.

This is not to say investors should not have rights under free trade agreements. But currently NAFTA, and its successor version for Central American states, CAFTA, unfairly place investors' rights above workers' rights, health and welfare regulation, and consumer rights. A review of the NAALC process shows that investors are clearly favored over workplace policies meant to protect injured workers from the likelihood of bodily harm or even kidnapping and violent or fatal assaults near the workplace. Free trade policy is about markets and profit, not about making corporations more socially responsible. Harmful consequences of corporate activity have become the price of doing business.

Today's global workers, whether in Mexico, Central America, India, or China, are doing work once performed by American workers. It is a reversal of the emergence, in the nineteenth and twentieth centuries, of trade unions, collective bargaining rights, minimum wage and maximum work laws, and protections from occupational hazards. Sadly, globalization and NAFTA or CAFTA mark either the end of an era of organized workers' strength in unions or a serious challenge to workers and activists to take back the right to work with a sense of human dignity. As noted above, NAFTA's labor side agreement, NAALC, pays only lip service to workers' rights and creates no realistic remedies. It is as if all workers have been returned to the era of the "at-will contract" when the employer could hire and fire for a good reason, or no reason at all.

There is something compelling about hearing the voices of experience describe the managerial styles, wages, and safety issues in the factories and then to recognize the product they make or the label of the employer in an advertisement for U.S. consumers. The difference between the cost of an item in the United States, and the pennies earned by the workers, conjure up the contracts theory of unjust enrichment. The workers say, "They use us, make money off of our hard labor, then they throw us away." The major complaint of the CFO in their "Six Years Under NAFTA" report was a lessened quality of life because of the poor wages and the long hours; they were working harder for less money than ever before.

On a 2004 delegation to Nuevo Laredo, I remember hearing workers tell about the "discount coupon maquiladoras" who had come in for a brief time with an exploitive agenda. They hired very young workers for two months, made them work long hours, and then one night disappeared, leaving the workers, many of them as young as twelve and thirteen, unpaid. Since that visit, I have a hard time looking through the huge coupon

inserts that come with my Sunday newspaper.

Maquiladora workers may need to think about suing their own government for its complicity in commercial activities that benefit privileged minorities while systematically harming the workers. As a result of their experiences in Mexico, some workers are lured to cross the border to find something better than the pay and conditions in the U.S.-owned maquiladoras, only to then face terrorism by vigilantes and hostile American legislators who view them as criminals for being desperate for work to meet their needs. Lastly, maybe the easiest path to accountability would involve putting NAFTA and NAALC aside and simply suing the corporate employer—who negligently and recklessly sets in motion systematic policies and practices that deny workers their right to human dignity—in a Mexican court under Mexican law.

B. Women's Bodies as Part of the Free Trade Deal? Women's Rights as Human Rights

It is against this backdrop of the institutional disregard for human rights that we should consider the fate of Claudia Ivette González. She could be sent home at any hour from the factory, despite its risk, in a city fraught with the systematic fatal assault of women, because her employer is not required to consider her safety under NAFTA. The policy of free trade is profit, not the terms and conditions of how a poor woman is hired, worked, paid, or disciplined. Her body is essential for production. The investor is in her country to do business while paying lip service to the notion of improving social and economic conditions. The license to cross borders for profit is set in motion by the Mexican business and political elite who would rather cater to investors' interests than care about citizens' health and welfare.

There was nothing unusual about Claudia being handed a standard penalty for being a few minutes late—"go home." To say that "this is an appropriate way to treat a chronically tardy worker" would be to look at the tree, not the forest. The way in which Claudia was treated in October 2001 was no different from that of thousands of other global factory workers who work under a network of unreasonable standards for worker treatment at the hands of the global employer.

When I attended the UCLA Maquiladora Murders conference, I was one of dozens of scholars and activists invited to explore the possibilities of empowering the grieving families with information, resources, and maybe even strategies for making the authorities accountable to them for what had happened to their daughters—some of whom had simply gone to work one day in an American factory and had never come home. I found myself then thinking out loud about the possibilities of pointing the finger toward a deep pocket—that of an employer—while I also acknowledged how extremely difficult it would be to blame the factories and their owners. If indifference toward Mexican workers means, statistically, indifference towards working women, then the problem lies not only in the pro-business political economy of the border, but also in the sexism of Mexico's free trade players—both private and public. Until the lives of working women are deemed more important, or at least as important, than participating in the global economy, little is likely to happen that effectively addresses their need for safety:

likely to happen that effectively addresses their need for safety, not only inside the factories, but also in the communities that are dramatically affected by the presence of the factories.

And yet the difficulty of challenging a heavily male-dominated, pro-business, anti-worker, sexist culture should not prevent us from asking: What if Claudia's family had decided that, in fact, her employer was partially responsible for putting her in the path of danger? What if they had wanted to contemplate the filing of a tort claim that might encourage the company to re-think the arbitrary use of a "go home" policy on young female workers, in a city plagued with gender violence and murder? Is this so unlikely a scenario for accountability?

When the investigations initially began, a theory was proposed that the chartered bus drivers who pick up and drop off workers at the factories were responsible for the murders. But that theory went nowhere. Undoubtedly, it is difficult to make the causal connection between the disciplinary measures for lateness at the Lear factory and Claudia's eventual abduction and killing.

However, an employer who might be telling the world "we are socially responsible" may want to reconsider how an agent enforces a policy which, in theory, secures a reliable workforce, but in practice endangers the safety and lives of working women and girls.

The spirit of "social responsibility" has generated a plethora of self-promoting campaigns by large corporations to claim their commitment to being socially responsible. Legislative activity directed at corporations that do business in other countries is virtually non-existent. Nor does the rhetoric of free trade ever seem to focus on the need to incorporate workers' rights into the trade agreements. One is more likely to encounter speculations for invoking the Alien Tort Statute (ATS), which provides "original jurisdiction [to the federal courts] of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the U.S." This statute has generated a new body of law potentially applicable in the international labor context for suing multinational corporations who systematically treat workers in violation of the law of nations.

In *Filartiga v. Peña-Irala*, a case which laid important groundwork for future ATS cases, the Second Circuit of the United States Court of Appeals emphasized how the international community had come to recognize the danger of ignoring "the flagrant disregard of basic human rights." This decision, viewed by some scholars as the *Brown v. Board of Education* for the "transnational public law litigant," provided a landmark ruling that approves of a unique type of lawsuit in American courts—one where an alien citizen obtains jurisdiction in a U.S. federal court to seek damages for tortious conduct by another person in the non-citizen's own country. The court recognized such a claim when "deliberate torture perpetrated under color of official authority violates universally accepted norms of the international law of human rights, regardless of the nationality of the parties."

Without replicating the well-developed body of literature on the potential use of the Alien Tort Statute, it is sufficient to say that an alleged violation of the law of nations has to meet the *jus cogens* test—a peremptory norm that is prohibited and recognized by all nations. These include genocide; slave trade;

murder or causing the disappearance of individuals; torture or other cruel, inhuman, or degrading punishment; prolonged arbitrary detention; systematic racial discrimination; or a consistent pattern of gross violations of internationally recognized human rights.

Can the maquiladora worker qualify as a “transnational public law litigant” who can hold a multinational corporate employer liable for depriving workers of rights that fall under the category of the “law of nations”? I have argued that the murder of a worker on her way to or from work is an extreme manifestation of the corporate employer’s attitude that the health, safety, and life of the worker is insignificant under the primary goals of NAFTA—investor rights to profit without trade barriers. But whether the transnational employer’s practices, like the harsh disciplinary measures, rise to the level of violating the “law of nations” is a more difficult question. Under the ATS, it is necessary to provide evidence that the employer and the Mexican government are together cooperating to enforce employer policies and practices that are recognized as prohibited by all nations.

The case law interpreting the law of nations has looked at more extreme examples of corporations cooperating with governments to produce inhumane conditions for workers, such as the forced slavery practices that were enforced by the Burmese government to aid the corporate activities of a global oil company. Maquiladora activists often decry the arbitrary imposition of extended work hours, on short notice, with the penalty of being fired if the worker refuses, just so a production schedule can be met. Such practices can be compared to the imposition of forced labor. Other systematic practices, such as the forced pregnancy testing that was eliminated only after international exposure from the investigation of a human rights group, could not have continued to occur for so long without the government’s acquiescence.

On the recent Reynosa delegation, we met a group of women who worked at the Delphi Electronics factory who were getting help from the CFO on a complaint involving the company’s demand that they all buy and wear special shoes. Over 230 workers had been suspended for wearing their open-toed sandals, which they said are worn by most workers because they are all they can afford. They were frustrated that the company not only wanted them to wear safer shoes, but would not pay for them and threatened the workers with permanent job loss if they did not stop wearing the sandals. On that same delegation, a group of workers complained that safety is such a problem that injuries occur regularly among the thousands of workers in the Emerson factory, while the Mexican safety inspectors do and say nothing.

Should it be acceptable for a female worker to endure not just poor wages, but also systemic exposure to life endangerment while her own government looks the other way? Does the murder of a maquiladora worker, who would not have been put in the path of danger but for the policy in effect at her place of employment, qualify as “causing the disappearance of an individual” and therefore a violation of the law of nations?

When the host government does not question the use of such policies that endanger the worker, is the employer now an actor

people that endanger the worker, is the employer now an actor under color of law? Is the multinational corporation which has a budget larger than that of several countries, and whose presence causes massive social reorganization in social and public policy, an actor under color of law, with or without the tacit approval of its practices by the host government? These are questions I pose for the lawyer interested in creating new legal strategies on behalf of the maquiladora worker.

III. FROM PASSIVITY TO EMPOWERMENT: GLOBALIZATION AND THE WOMEN OF THE COMITÉ FRONTERIZO DE OBRERAS

The CFO, as well as other labor groups, independent unions and individuals around Mexico continue to resist and fight back against the “three-headed monster” that continues to exploit and abuse workers: the government; the corporations that take maximum advantage of labor conditions; and the pro-business, official unions like the CTM that are loyal servants of the corporations.

Julia Quiñonez Gonzales,
Coordinator of the CFO

A. *The Movement for Justice by Women Workers*

In this section, I will highlight workers' efforts to bring about justice in the maquiladoras. Although it is important to improve globalization analyses with attention to women's experiences and struggles, it is also important to transcend the essentialist image of all poor working women as victims. Many workers in global factories do not passively accept the attitudes of indifference that are crafted into free trade law and policy and taken advantage of by some companies. In this section, I discuss the organizing philosophy and techniques of women workers, and I highlight individual stories of empowered workers.

Questions of legal accountability for the abuse of employees of multinational corporations (MNCs), which benefit from free trade agreements such as NAFTA, are complex. In the past two decades, the world has been reorganized along borderless regions by a significant consensus—mostly among the financial leaders of the wealthiest nations—that freer trade among all nations in targeted regions will end poverty and promote democratic forms of government. But for the workers, the promises of “la globalización” have been a lie. Instead, their experiences include increased stress and chronic illness associated with toxicity and demanding hours; an inability to make ends meet on pitiful wages; and the constant betrayal of government-backed unions siding with management.

That said, the workers I have been privileged to meet do not easily give up the struggle for justice in the border industries. I am in awe of the organizing methods used by the CFO, which are premised on mutual respect, community, safety, and creating a sense of dignity in every worker no matter how old, young, or educated. Often, workers open up for the first time about their problems and concerns at a CFO meeting. It is not uncommon for a co-worker to meet another who also paid the price for standing up to an abusive supervisor. For example, the group from Dimmit that I met in 2000—Juanita, Raquel, Norma, Juan Pablo, and Amparo—did not know each other until they were all

Factor, and Amparo did not know each other until they were all fired at the same time. Out of work, they received support from the CFO to organize and publicly protest their firing as other workers ended their shifts. With more meetings at the small CFO office, they learned about the basic elements of the CFO's strategies for social change within the maquiladoras.

The organizing methods of the CFO operate on simple principles. The first is to recognize the worth and dignity of every worker. Leaders arrive without a particular agenda, fliers, or advice to offer, instead listening to the workers, getting a sense of their needs, and only then beginning the process of introducing the workers to the idea that they have certain rights.

These rights are printed in a copy of the compiled Mexican Federal Labor Law for the workers to review. The first step in this educational process is powerful—it empowers the workers to connect the injustices they are enduring inside the factory to the existence of a rule of law that says “this is illegal.” Once that connection is made, workers usually begin to talk even more, connect with each other, and understand the need for community, strategy, and patience.

In doing their work, CFO organizers may use techniques that include role playing, humor, and encouraging workers to act out scenarios they can take back to the workplace. For U.S. allies, observing some of these educational exercises can be a sobering experience, especially those who see in the exercise known as “La Canasta Básica” how incredibly unjust the cost of living for a family is compared to the workers’ actual take-home pay. In this exercise, there is simply a chart posted on a wall listing the basic needs in terms of rent, utilities, food, clothing, and educational supplies for children. One chart itemizes essential expenses, while the other lists ideal expenses. The workers’ wages barely meet the essential, while the ideal, including items like meat, cheese, poultry, and milk, fall into the “unaffordable” category.

The process of becoming aware, as well as the corresponding awakened sense of personal integrity, sparks transformational changes in some of the workers. “I used to be very timid like many of these workers we meet,” said Juanita when I met her. “I would hold my head down and cry as the supervisors yelled at me.” Juanita has become one of the best organizers in the CFO. From such experiences, community is formed, trust is established, and large groups of workers, who once imagined they were the only ones suffering at the hands of an employer, are empowered.

The CFO volunteers constantly stress the importance of acting upon the voice, cause, and interests of the workers. Nothing is done until many are committed. The CFO does not want to risk losing precious ground by having several key organizers fired from their jobs before a problem has been resolved. So they organize patiently, sometimes planning for several months before a critical mass is formed that can support a worker willing to stand up for justice.

Of course, there are challenges. Maria Elena Garcia, the volunteer who began to work for the CFO in Reynosa and told me of her chronic foot rash, commented that organizing among largely poor and uneducated women is difficult and risky. She shared that supervisors say things like, “There you go again, you

bunch of mediocre people . . . you go and you fight and you don't know what you're getting yourself into," in order to trigger the workers' fears and insecurities about being fired for protesting injustices. However, as the daughter of a woman who had fought for justice in the pre-NAFTA maquiladoras, Maria Elena was not about to give up fighting against labor injustice. She organized workers to challenge their employers' abusive practices. Reflecting on how hard it can be to organize workers fearful of losing their jobs, she said, "It is hard work, but . . . I also like it a lot."

More recently, workers empowered by the CFO have won new victories. Some of the workers who have won labor board arbitrations have come out with generous lump sum settlements that have allowed them to leave maquiladora work and open small businesses, like beauty shops or food stands. A few years ago, several workers took a bold step and ventured into the world of fair trade. With the help of the CFO and U.S. allies knowledgeable in business, they took their former garment factory skills to create *Fábrica Dignidad y Justicia*, a fair trade company run mostly by women who are working decent hours, earning a living wage, producing goods that people want (T-shirts and canvas bags), and engaging in labor they can love and be proud of every day.

B. The Nemesis of Activist Workers: Hostile Governments and the Delusions of Global Democracy

I have previously noted that the phenomenon called "globalization" has both fans and critics, but that many people do not even question the idea of greater expansion of the global economy. It is simply assumed that the more we expand the global interconnection with other countries, whether rich or poor, that we are indeed expanding upon freedom throughout the world. Those supporters are unlikely to take a closer look at the disparities that are present between trading partners based in wealthy first-world and those in oftentimes extremely poor third-world countries. In recent years, U.S. President George W. Bush has made clear his support for more free trade pacts and has explicitly linked the expansion of markets for American entrepreneurs and farmers with greater freedom throughout the world. He argues that increased free trade between countries, regardless of the size and wealth disparities between trading partners, leads to the expansion of civil and political freedom.

But, if there is in fact such a great benefit to be gained from globalization, and if the corporate investor is key to promoting globalization and global democracy, then I argue that it must meet the highest standards of conduct.

Regardless of how and why free trade pacts are promoted and set in place, it is mainly corporate CEOs and stockholders who reap the benefits of these treaties. These pacts provide the legal framework that allows expansion of markets and reorganization of labor operations throughout the world. And as key actors in economic globalization, corporations stand symbolically in the place of governments that want freer trade, presumably to ensure the benefits promoted with open trading, such as international friendship and cooperation or new jobs and improved working conditions. The conspicuous presence of American enterprise (and military) in an expanding global economy should encourage

(and military) in an expanding global economy should encourage Congress to enact measures that not only enhance free trade, but that also ensure a positive image of American global democracy by holding the American multinational employer to a higher standard of accountability.

To date, the primary basis for holding MNCs accountable for violating international human rights law in a civil suit has been a finding that they acted in complicity with a government as “joint actors,” guilty of raping, torturing, and otherwise abusing its own citizens. However, this basis requires evidence of aiding and abetting the government to violate the law of nations, or evidence that the MNC is deemed an actor under color of law, to be held separately liable under human rights norms as a state actor. These difficult questions have not been resolved and continue to be explored by courts and scholars.

Scrutiny should be placed squarely on the multinational corporation, not on the complex relationship between the maquiladora worker, her government, or on other explanations for the gender violence (e.g., cultural patterns of sexism). Such focus is appropriate because:

- Many corporations are enormously wealthy and powerful enough to supplant governmental power and authority;
- These corporate leaders encourage their governments to pass laws that create a legal environment that promotes their objectives in the name of global democracy;
- In this capacity, these powerful and gigantic corporations might as well be quasi-governmental actors whose essence and function is to create the infrastructure and culture of new global democracies with their money, technology, construction, policing, and armies of independent contractors for multiple public services; and
- These corporate leaders stand to benefit from treaties that will allow them to venture forth in the name of global democracy and profit throughout the world via contracts with mostly third-world countries.

In the absence of an international governmental body truly respected by all nations and with the power to regulate and impose effective sanctions, the only hope is that a multinational corporate investor will choose to do the right thing and self-regulate instead of, for example, simply paying for expensive web site pronouncements proclaiming that the company is socially responsible. Pro-globalization advocates measure success only from the standpoint of markets. They do not address the questionable relationship between claims of benefits and increased costs for things that are priceless, such as clean environments, secure families, relationships, and human life.

Thus, when the policy for promoting globalization is structured to promote fatal indifference to the plight of global workers, left undisturbed and without effective amendments to future trade agreements, globalization of the economy will continue to guarantee less, rather than more, global freedom.

Meanwhile, free trade, as opposed to fair trade, continues with more corporations and their highly paid directors raking in profits as they globe-trot in the corporate race to the bottom of the wage scale in third-world countries. And with increases in globalization, other developments that follow profits are likely to

increase as well—developments such as the systematic abuse of workers and femicide in the maquiladoras of the world.

IV. CONCLUSION

I began this article by highlighting the intense feminist activism, primarily in the form of popular culture, that has surrounded the investigations of the Ciudad Juárez murders. I also postulated that the public discourse about systematic violence at the Mexican border says too little about the context within which the murders take place—the context being an extension of the gender abuses and violence that exists in some of the maquiladora factories. I realize that, for some, it is difficult to equate the abuses in the factories with violence. But I speak as one who has met workers and their families and witnessed courage and love amidst heartwrenching examples of despair, poverty, and illness wrought by the conditions of the workplace, which dramatically affect primarily working women at the border. Ciudad Juárez just happens to be one of the more extreme examples of an overwhelming level of powerlessness of the working poor that makes daughters, mothers, and sisters vulnerable to a violent environment, whether in the form of exploitative working conditions or in exposure to fatal assault on their way to and from work.

As a feminist living in the wealthiest country in the world a country that is home to some of the largest multinational corporations and beneficiaries of globalization in the world—I encourage feminist activists to engage themselves more in the task of studying and changing the politics and policies of free trade. Along with an awareness of these murders, feminists need to be asking: (1) why a working woman in a poor country should have to risk her life and health in order to make products that will ultimately be bought and consumed by more privileged women in a first-world country; and (2) why there is so little regulation or accountability for the corporations that make and sell these products in the name of free trade and global democracy.

If the patterns of gender violence that accompany globalization are to be halted in other parts of the world, then it needs to occur from a platform of global sisterhood, an idealistic concept that resonates to the feminism of the twentieth century, when women organized around the universality of unjust domestic and sexual violence in any part of the world where women and girls were subordinate to male supremacy. If feminists are going to take the time to write and produce literature, as well as popular culture, that raises awareness of the maquiladora murders, they should also be studying ways to influence change in the politics and policies that promote free trade. If feminism's responsibility includes educating policymakers and electing legislators who will study the issue with nuance to the political economics of racism, classism, and sexism. Progressive globalization analysts, like the influential Joseph Stiglitz, also need to re-examine their critiques that focus only on economic disparities as a result of pushing more and more poor countries to participate in the global economy.

Feminists need to put the story of the Juárez murders in a context that appreciates the powerful attraction governments have to participation in the global economy. Meanwhile, critics

of globalization need to consider the impact that globalization has on women's safety in the workplace and on their homes and communities, and must question the integrity of the familiar argument that globalization benefits all. The fact that a third-world country is pressed by major economic institutions to open its doors to foreign investors in exchange for new jobs and wealth, but also to abandon concern for basic human rights and safety for its citizens, is unconscionable. Yet it is a modern reality. Globalization of a poor nation's economy exacts a heavy price in guaranteeing the production and reproduction of gender-based violence and femicide.

I have introduced some of the stories and testimony gathered on many visits to the border as an ally of women working in the maquiladoras, and more recently, as a committed educator trying to introduce students to the human face of free trade. What I have hoped to elucidate is how a combined host of variables, including typical corporate decisions about discipline for workers, as well as the clear bias that favors investors in free trade law and policy, produces a hostile work environment with a discriminatory effect on women and female children. What happened to Claudia Ivette González and other maquiladora workers is inseparable from the employer's attitude of indifference to the health and safety of working women inside the factories. If a company is not required to care about the injuries and the toxicity in the factory, why would it care about what might happen to a young girl who is sent out on foot in the early hours of the morning into unsafe areas of the city?

The role NAFTA has played in luring rural families north to the border towns and into the maquiladoras, only to discover nonliving wages, no place to make a home, and frightening social conditions that threaten the safety of their health and their families, is widely ignored. Additionally, because of the historic presence of women in the maquiladoras, systemic and ignored patterns of gender discrimination well-recognized throughout the industry (e.g., sexual harassment, forced pregnancy testing) provided a foundation for the emergence of more violent forms of social chaos and gender violence to erupt in Juárez along with its development into a major export processing zone.

Ciudad Juárez is still Mexico's shining star as an example of a successful export processing zone. But it has also become a haven for violence against women in the form of systematic abuse inside the factories and in the production of subtle effects on the working and living environment for all women in the city.

As the activists in the factories often note, the phenomenon of the murders is inseparable from the gross indifference to the health and safety of the workers employed by the large and powerful maquiladoras, whose activities are licensed by free trade law, and are welcomed and unquestioned by the power elites of the host government. When gender abuse and violence, corporate power and indifference, and government acquiescence come together in the city of Juárez, they produce an environment hostile to women and hospitable to the rise of maquiladora murders.

Sadly, Claudia Ivette González is a martyr for justice in the maquiladoras, a place where workers have no expectation of safety in or out of the workplace and where supervisors can take

actions against workers that, collectively, become the structure of fatal indifference. Claudia's abduction, and that of so many of the victims of Juárez who were maquiladora workers, is the ultimate result of free trade and globalization. Her body may have been abducted and grossly violated by whomever found an easy target that morning, but the life preceding her brutal killing had already been defined as insignificant: a fleck in the fabric of global production.

VOLUME 5•ISSUE 2•2007