agree with the following statement: "The rational model of the organization implies that the corporation is based on consent, while the political model implies that the corporation is based on force, and the caring model implies that the corporation is based on interpersonal relationships"? Which of the two models do you think provides the more adequate view of organizations you are familiar with, such as the university or companies you have worked for? Explain your answers.

4. In view of the contractual agreement that every employee makes to be loyal to the employer, do you think whistleblowing is ever morally justified? Explain your answer.
5. Do you agree or disagree with the claim that corporate managements are so similar to governments that employees should be recognized as having the same "civil rights" as citizens have?
6. Evaluate the desirability of the "caring organization."

Web Resources

Readers interested in researching the topic of organizational life including worker safety might want to start with the Occupational Safety and Health Association Web page (*http://www.osha.gov*); the National Institute for Occupational Safety and Health (*http://www.cdc.gov/niosh/homepage.html*); the topics of labor and employment law at Hieros Gamos (*http://www.hg.org/employ.html*) and the American Bar Association (*http://www.abanet.org*); the Legal Information Institute at Cornell Law School (*http://fatty.law.cornell.edu/topics/topic2.html#employment%20law*); the 'Lectric Law Library (*http://www.lectlaw.com*). Information on unions is provided by the American Federation of Labor–Congress of Industrial Organizations (*http://www.aflcio.org*). The Campaign for Labor Rights provides information on labor issues (*http://www.campaignforlaborrights.org/*). Information on sweatshops around the world can be found at *http://www.sweatshops.org*; *http://www.sweatshopwatch.org*; *http://www.globalexchange.org/campaigns/sweatshops*; *http://www.studentsagainstsweatshops.org*; *http://www.behindthelabel.org*; *http://www.maquilasolidarity.org*; and *http://www.campaignforlaborrights.org*.

abc NEWS CD-ROM CASES

Gap's Labor Problems

Gap, Inc. is a chain of retail stores—including Gap, Banana Republic, Old Navy, Gap International, GapKids, and BabyGap—that sells casual apparel and shoes and is headquartered in San Francisco. In January 2004, the company reported fiscal year profits of $1.03 billion on sales of $15.85 billion. Almost all Gap merchandise is made under contract for the company by some 3,000 supplier factories that are owned and operated by foreigners in 50 countries, most of which are developing nations where working conditions are often exploitive.

In March 2004, Paul Pressler, president and chief executive officer of Gap, Inc., looked over a draft of the company's forthcoming *Social Responsibility Report 2004*, which described labor problems the company had faced since 1995 in the factories that supplied its clothes. He wondered whether the report disclosed too many of the company's shortcomings. Pressler felt it was important to give the public a comprehensive overview of the problems that garment workers around the world faced, as well as an overview of the company's own continuing struggles and difficulties finding solutions to these problems. But the report, which detailed many of the company's weaknesses, was risky. It might be met with scepticism. It might inflame the company's critics. And it might turn away investors and customers.

One of the toughest issues the company had faced and that was described in the report, was the lawsuit the company had settled in September 2002. The class action lawsuit had been filed on behalf of workers on January 1999 when Gap, Inc., and 25 other retailers were accused of contracting with sweatshops on the island of Saipan, a U.S. protectorate in Southeast Asia. According to the lawsuit, the Saipan factories violated the human rights of their workers. Moreover, the lawsuit alleged, Gap, Inc. and other retailers had deceived American customers by stating on labels that the clothes manufactured in Saipan were "Made in the U.S.A.," falsely implying they were made according to U.S. labor standards. Pressler was still upset by the lawsuit. He knew that Gap, Inc., regularly monitored its factories and so he believed that conditions in the Saipan factories could not have been as bad as the lawsuit claimed. Saipan was not the only place where the company had been accused of violating workers' rights. Similar accusations had been made about factories making clothes for Gap in Central America, Lesotho, Thailand, Cambodia, Bangladesh, Indonesia, and Mexico.

Gap was founded in 1969 when Donald Fisher and his wife, Doris, opened a small clothing store near San Francisco State University. By 1971, they were operating six Gap stores. In 1983, Fisher enticed Millard Drexler, former president of Ann Taylor, into taking over as the new president of the Gap while Fisher became chief executive officer. Drexler transformed the company by replacing the drab lines of clothing the store had been stocking with its own private-label brand of new, brightly colored lines of rugged, high-quality cotton clothes aimed at a young, affluent, and trendy customer. In 1995, Fisher retired as CEO but remained board chairman and Drexler took over as CEO of the company, which by then had 1,348 stores. Although competition was intense, Gap continued to prosper (in spite of a slowdown during 2000–2002) and when Drexler retired in September 2002 to be replaced by Pressler, the company operated over 4,000 stores.

Gap was one of the first companies to adopt a code of ethics for its factories. The company updated its code in 1993 when a fire swept through a toy factory in Thailand, killing 200 workers because safety exits were blocked. Although the Thailand toy factory did not make clothes for Gap, the company nevertheless implemented a code of ethics for its suppliers to ensure their factories were safe and to prevent the kind of ugly publicity the fire had generated for Wal-Mart, Toys-R-Us, and other retailers the toy factory had supplied. Gap's code stated that its suppliers had to avoid discrimination, use no forced or prison labor, employ no children under 14 years of age, provide a safe working environment for employees, pay the legal minimum wage or the local industry standard—whichever is greater—meet all applicable local environmental regulations, neither threaten nor penalize employees for their efforts to organize or bargain collectively, and uphold all local laws. Before it signed a contract with a new factory, Gap sent one of its employees to inspect the factory and had the factory owner sign its code of conduct.

Gap's labor troubles began in earnest in 1995 when *The New York Times* columnist Bob Herbert reported on a factory in El Salvador that made clothes for Gap:

> The hundreds of thousands of young (and mostly female) factory workers in Central America who earn next to nothing and often live in squalor have been an absolute boon to American clothing company executives like Donald G. Fisher, the chief executive of the Gap and Banana Republic empire, who lives in splendor and paid himself more than $2 million last year.
>
> Judith Viera is an 18-year-old who worked at a maquiladora plant in El Salvador that made clothing for the Gap and other companies. She was paid a pathetic 56 cents an hour. Donald Fisher should meet Judith Viera, spend some time with her, and listen to her as she describes in a still-childish voice her most innocent of dreams. She would like to earn enough money to buy a little more food for her mother and two sisters. She would like to go to high school. But Donald Fisher is a busy man. It takes a great deal of time to oversee an empire balanced on the backs of youngsters like Ms. Viera.[1]

El Salvador, located in Central America, was an extremely poor nation, where 40 percent of the population lived below the official poverty line and where rampant inflation had depressed real wages. The factory in El Salvador that made Gap clothes was run by Mandarin International, a Taiwanese-owned company. Mandarin paid its workers—mostly young women—about 12 cents for assembling a Gap turtleneck that retailed for $20 in the United States. Wages at the Mandarin plant averaged 56 cents an hour—a level that was claimed to provide only 18 percent of the amount needed to support a family of four but that was about what most other companies in the region paid. The Mandarin plant was also accused of harassing workers, hiring 15-year-olds to work full-time, and failing to pay for overtime. The laws of El Salvador prohibited employers from firing or harassing employees who are trying to start a union, prohibited minors between 14 and 18 years of age from being worked more than 6 hours a day, and set the maximum normal workweek for adults at 44 hours unless overtime rates were paid. However, these laws were rarely enforced.

Representatives of The National Labor Committee (NLC), a coalition of American unions headed by labor activist Charles Kernaghan visited the Gap factory in El Salvador and reported to newspapers that when workers tried to form a union they had been beaten by factory guards and fired. Conditions at the factory, Kernaghan claimed, were atrocious. The NLC was concerned with low-cost foreign sweatshops like the Mandarin plant because American apparel workers had to compete with them. Until the situation of apparel workers in developing countries improved, American unions felt, the plight of apparel workers in the United States would continue to worsen.

After its investigation, the NLC brought an articulate young worker from El Salvador—Judith Viera, an 18-year-old former employee at the Mandarin plant—to the United States to attend demonstrations in over 20 American cities to publicize Gap's problems at the Mandarin plant. At press conferences, the young woman accused Gap of a "cover-up"; she described long hours of work for 56 cents an hour, violence against union supporters, sexual harassment from supervisors, lack of clean drinking water, not being allowed to use rest rooms, and being forced to sweep the factory grounds under a torrid sun as a punishment. She begged consumers to boycott Gap until the fired union workers were reinstated and Gap agreed to have an independent third party monitor the plant's compliance with Gap's own code of conduct. The campaign generated enormous negative publicity for Gap and highlighted the plight of the workers in developing nations who made its clothes. As the NLC expected, the image of a young, tired, impoverished woman working long hours over a sewing machine formed a shocking contrast to the clean-cut, youthful, carefree images Gap relied on to sell its clothes, and the contrast attracted widespread media attention and notoriety.[2]

Gap initially resisted the campaign's demands. The company pointed out that the workers involved were not Gap employees, but were employees of an independent company, and so their work conditions were not a Gap responsibility, but the responsibility of the owners of the Mandarin plant. Moreover, when the company's own investigators talked with Mandarin employees at the factory, those employees did not report the terrible work conditions the NLC was alleging. Gap did not want to rely on a third independent party to monitor work conditions in the plant since information about the plant would then be filtered through this third party and Gap would have little control over how that information might be used. The campaign continued to sully Gap's clean-cut image, however, and by the end of the year the company finally gave in to the NLC's demand that it hire a third-party independent group to monitor the Mandarin plants instead of relying on its own inspectors and the word of factory owners.

But the company's labor troubles did not end. The NLC and other human rights organizations, including Global Exchange and Sweatshop Watch, continued to stage noisy and well-publicized demonstrations in front of Gap stores everywhere, claiming that young female Gap factory workers in Honduras and other developing nations had to undergo pregnancy tests, had to work overtime without pay, did not have access to locked bathrooms, and were paid only $4 a day. A new issue came to the fore in the spring of 1996 when Charles Kernaghan testified in Congress that 13-year-old girls had been hired by a Honduras factory to work 13-hour shifts for 31 cents an hour sewing clothes for Kathie Lee Gifford. When confronted on television with the use of child labor to make her trademarked clothes, Kathie Lee Gifford broke down crying and later stated, "Every one of us—from the entertainer, the sports figure, whomever lends their name, to the consumer in the store who buys the product—has an obligation to know how their garment was made."

As the issue of child labor in sweatshops—particularly several making shoes and equipment for Nike—exploded into major news, activists began claiming that several Gap factories also hired underage children to make Gap clothes and that conditions in Gap factories were as bad as ever. In 1997, activists blamed Gap for the death of Carmelita Alonzo, a young woman who died of exhaustion after working several 14-hour days at a Philippines factory that made clothes for Gap. The following year, the NLC accused the company of contracting with a Chinese factory where 15-year-old-girls were paid 42 cents an hour to work in rooms reeking of toxic fumes from gluing shoes and with no access to bathrooms. The NLC also alleged that several Gap factories in El Salvador, including Tainan, Charter, Newtex, Mansalex and Han Chan, still imposed mandatory pregnancy tests on women, hired underage workers, maintained harsh discipline, failed to pay workers if they arrived a few minutes late for work, harassed and fired workers who tried to start unions, and failed to post Gap's own code of conduct. And everywhere, the NLC claimed, workers making Gap clothes were poorly paid and lacked unions.

The accusations moved to a new level in 1999 when Global Exchange, Sweatshop Watch, and the AFL-CIO Union of Needletrades Industrial and Textile Employees filed a class action lawsuit against Gap and 17 other retailers (including Nordstrom, Tommy Hilfiger, May Co., Sears, Wal-Mart, J.C. Penney, Gymboree, the Dress Barn, Limited, Lane Bryant, OshKosh, and most other large U.S. clothing companies) on behalf of 50,000 workers in factories in Saipan, an island in the South Pacific located about 120 miles north of Guam.[3] Saipan is the largest of 14 islands that together make up the Commonwealth of the Northern Mariana Islands (CNMI). In 1975, the CNMI became a U.S. territory and its 15,000 inhabitants became

U.S. citizens. Although most U.S. labor laws (including federal overtime laws and worker health and safety laws) apply to the CNMI, it is explicitly exempt from federal minimum wage laws and from U.S. immigration law. The population of the CNMI exploded to 70,000 by 1996: over half were foreign workers on temporary visas who had migrated to Saipan to work in one of the many factories that foreign companies (primarily Korean, Chinese, Japanese, and Thai) had built on Saipan to make clothes and other products for U.S. companies. Surprisingly, 91 percent of private-sector jobs in the CNMI were held by foreign workers. The factories advertised that garments and other products made in Saipan could be "exported duty free to the United States," were "exempt from U.S. minimum wage laws," and could be advertised as being "Made in the USA."

The lawsuit stated that Saipan's factory workers, mostly women, were recruited by private agencies in China, Bangladesh, Korea, and elsewhere with advertisements promising "well-paying jobs in the U.S.A." In fact, however, the jobs were in Saipan and paid $3 an hour. Workers had to sign contracts promising to pay the recruiting agency an average "fee" of $5,000 that would be deducted from their weekly paychecks and promising not to participate in political or religious activities, not to marry, not to ask for salary increases, not to look for alternative employment, nor participate in any union activity. Workers were generally unable to change employers and had to stay with their employing factory until their recruiting fee was paid. In Saipan, workers often found themselves paying $200 per month for poor food and housing in factory-owned shantylike barracks that were dirty, overcrowded, lacked clean drinking water and hot water, had exposed electrical wiring, and had filthy and inoperable toilets. Such conditions were all violations of U.S. labor laws. Although factories by law had to provide a return ticket for each worker when their employment contract was over, many factories reneged on the requirement, forcing their workers to sign up for a new contract in order to earn the money to return home. In addition, the lawsuit claimed, workers in Saipan's garment factories were subjected to degrading treatment, abuse, and punishment. The factories had received over 1,000 citations for violating U.S. health and safety laws, including blocked exits, fire hazards, unsanitary restrooms, and exposed electrical wiring.

The lawsuit named five factories (Mirage, Sako, UIC, Hansae, and Mariana Fashions) that made clothes for Gap and that were alleged to violate U.S. labor laws. Workers in these factories, the lawsuit claimed, were given high quotas that they had to meet or they were not paid for all the regular hours they had worked. Workers were also forced to work unpaid overtime either directly or by being required to provide "volunteer [unpaid] time."

Finally, the lawsuit claimed, Gap and the 17 other retailers all advertised falsely to consumers that the clothes made for them in Saipan were not made under sweatshop conditions. The retailers labeled their clothes "Made in the USA" or "Made in Northern Mariana Islands (USA)," which, the lawsuit claimed, implied to consumers that the garments were made in compliance with U.S. labor, health, and safety laws and all other legal protections to which U.S. workers have a right, including full payment for overtime work, clean and safe workplaces and factory-owned living spaces, and full protection of fundamental civil liberties. This implication was economically important to the retailers because surveys had shown that 84 percent of consumers polled said they would pay more for clothes that are made in the U.S.A. and 78 percent said they would avoid shopping in stores that sell clothes made in sweatshops. However, the lawsuit alleged, "the garments . . . are in fact produced under abusive and oppressive conditions by exploited foreign workers operating in foreign-owned sweatshop factories in the CNMI."

The lawsuit caught Gap by surprise. "We are deeply concerned by the allegations," a spokesperson said, "Gap Inc. does not tolerate this type of conduct in the factories where we do business [and we monitor] conditions to ensure that workers are treated with dignity and respect."[4] Although all but six other retailers named in the suit had reached out-of-court settlements by the end of 2001, Gap refused to join them. The company insisted that its own monitors had not reported sweatshop conditions and unpaid overtime in its Saipan factories and that the lawsuit simply lumped together all Saipan factories without carefully distinguishing those, like Gap's, that were in compliance with worker health and safety laws. Settling the lawsuit, Gap claimed, would imply that it agreed with what it considered to be partially false accusations and misrepresentations of factory conditions.

However, in 2001 the company added to its code of conduct new guidelines that addressed the needs of foreign contract workers like those in the Saipan factories. The guidelines stipulated that in addition to maintaining safe and healthy working and living conditions for foreign workers, the factories had to allow foreign workers to move to other employers, to return home at will, and to control their own visas. With its new guidelines in place, Gap finally agreed on September 26, 2002, to settle the Saipan lawsuit. As part of the settlement, Gap agreed to contribute a certain amount to a fund of $20 million to be used to compensate workers and to pay an independent third party, Veritas of Amherst, Massachusetts, to conduct ongoing on-site monitoring of factories in Saipan. In addition, Gap agreed that all future contracts with Saipan factories would (1) require safe and healthy working and living conditions, (2) prohibit any recruitment fees, and (3) ban agreements that forced workers to give up their rights to marry, to attend church, to look for alternative employment, and to participate in political or union activities.

Nevertheless, the bad publicity continued. In 2002, the Maquila Solidarity Network and Labor Behind the Label, two labor rights groups, visited several factories producing for Gap, Inc., in Lesotho, an African nation, and found forced overtime, below-subsistence wages, high quotas, sexual harassment, verbal and physical abuse, and harassment of union organizers. Gap spoke with the owners of the Lesotho factories, and new supervisors were hired to manage the factories involved. That same year the same two groups reported that Gap factories in Indonesia and Thailand were harassing workers who tried to form unions. Again, Gap intervened by pressuring the factory owners to respect workers' rights and to reinstate any fired workers. In July 2003, another group, the Global Ethics Monitor, reported that union protests seeking better pay and less abusive work conditions at a Cambodia factory had led to two deaths and a government crackdown on union organizing. The unions involved blamed Gap for not doing more to defuse the situation. That same year several labor groups protested antiunion activities at several clothing factories in El Salvador. Gap intervened and the factory agreed to build a new plant with a union and a collective bargaining agreement.

By late 2003, Paul Pressler, who had been CEO of Gap for only a year, decided that the company had to do something to quell the continuing bad publicity that was sullying the company's reputation and marketing image. In fact, when he accepted the CEO position at Gap, one of the first things his own teenage daughter had asked him was "Doesn't Gap use sweatshops?" Problems would continue to arise, since by now the company contracted with more than 3,000 factories in over 50 countries. His managers came up with an idea that he accepted: a public report that would provide full details of all the problems the company faced and of the plight of garment workers around the world, and an honest view of the company's attempts to deal with their plight.

The report was issued in May 2004 and posted on the company's website for the world to see. The report provided detailed data on conditions in the 3,000 factories that made its apparel and candidly noted exactly how many factories were not in compliance with its code in each country. At one point it admitted that "few factories, if any, are in full compliance all of the time." The report also noted that 25–50 percent of its factories in Central America and the Caribbean were cited for paying below-minimum wages and that the same percentage of factories in sub-Saharan Africa and India had workweeks longer than 60 hours. The report explained its monitoring systems, summarized its code of ethics, and described new antisweatshop initiatives it was trying out in Lesotho, Cambodia, China, and El Salvador.

Most labor groups praised the report, although some noted a troubling admission: "We've found that [union rights] abuses are difficult to discover and prove and even harder to resolve . . . violations of our code's freedom of association requirement are rarely as straightforward as other issues, such as health and safety problems." While the company's code required factories to respect workers' right to unionize, it did not require factories to actually have a union. Charles Kernaghan of the NLC, while praising the report, noted that the presence of a real union was becoming the new key issue in overseas contracting: "In economies that are paying poverty wages, when people have no rights and no power, what you end up monitoring are well-run prisons. Sure, factories will be cleaned up. They'll have bathrooms where the water runs. But when it comes to wages, to having a democratic voice on the shop floor, monitoring and codes of conduct are a dead end."[5]

Questions

1. In your view, should Gap have given in to the union's 1995 demand that it hire a third-party independent group to monitor the Mandarin plants instead of relying on its own inspectors and the word of factory owners? Should Gap have done anything more? Explain.
2. Is a company like Gap morally responsible for the way its suppliers treat their workers? Explain your answer.
3. Should companies like Gap attempt to get their suppliers to pay more than the local industry standard when it is insufficient to live on? Should they pay wages in the Third World that are equivalent to U.S. wages? Should they provide the same levels of medical benefits that are provided in the United States? The same levels of workplace safety?
4. In your view, is Gap's use of the labels "Made in the USA" or "Made in Northern Mariana Islands (USA)" deceptive? Explain.
5. In your view, and in light of the fact that Gap's own monitors had not reported sweatshop conditions and unpaid overtime in its Saipan factories and that these were in compliance with all applicable worker health and safety laws, was it right for Gap to settle the lawsuit? Should Gap have settled the lawsuit? Explain.
6. In light of the long history of labor problems that Gap has had to contend with, what recommendation or recommendations would you make to Paul Pressler concerning what the company should now do to deal with these and future problems? Explain how your recommendations will effectively solve these problems for Gap.
7. In your judgment, how effective would you expect the release of the company's *Social Responsibility Report 2004* to be? From an ethical point of view, and in light of the company's responsibilities to its various stakeholders, should the report have been released?
8. From an ethical point of view, assess Kernaghan's ending statement concerning the issue of unions. Should Gap require unions?