



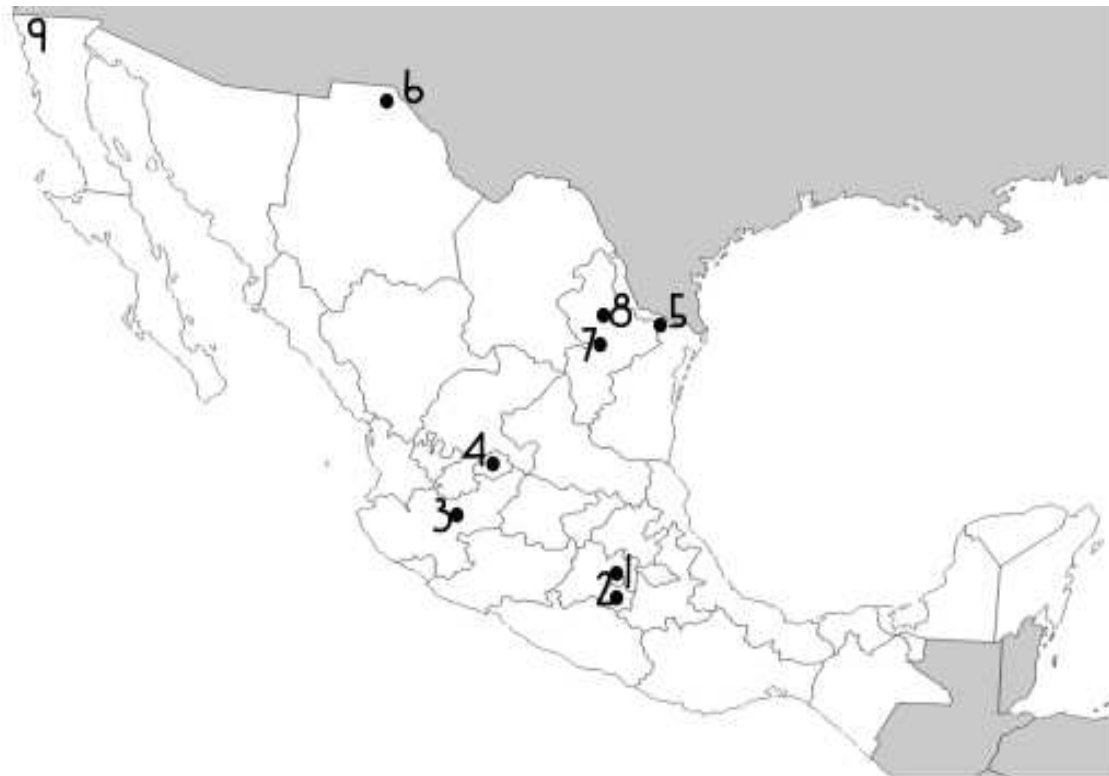
The crisis that never went away

Fourth report on working conditions in electronics
industry in Mexico

Centro de Reflexión y Acción laboral

october 2011





Geographical location of the main companies in the electronic industry

1.- Mexico city

- Ericsson
- Hewlett Packard
- Daewoo
- Mabe México
- Samsung
- Mitsubishi
- Hitachi
- Mexicord

2.- State of Mexico

- Phillips

- Samsung
- Emerson
- Daewo
- Mitsubishi
- Pantech Mobile
- Osram

3.- Jalisco

- IBM
- Benchmark
- Sanmina SCI
- Flextronics

- Jabil
- Kodak
- USI
- Hewlett Packard
- Siemens
- Pantera
- MTI Electronics
- Modus Ling
- Mexicord
- Rosti
- Molex
- Technicolor
- Foxconn
- Continental

4.- Aguascalientes

- Texas Instruments
- Flextronics

5.- Reynosa

- Ammex
- Celestica
- Emerson
- Foxconn
- Fujitsu
- Jabil
- Kongsberg
- L.G.
- Motorola
- Nokia

6.- Cd. Juárez

- Toshiba
- Flextronics
- Jabil
- Lanix
- Phillips
- Osram
- Motorola
- Jabil
- Foxconn
- Lanix
- Pegatron
- Lexmark

7.- Monterrey

- Kodak
- Phillips
- LG
- Celestica
- Kemet
- Osram
- Lenovo

8.- Apodaca

- Lenovo

9.- Tijuana

- Sony
- Panasonic
- Samsung
- LG

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Introduction

In this report the Centre for Labour Reflection and Action (CEREAL) has chosen to address the three themes which, from our point of view, are the most problematic for the electronic industry in Mexico in relation to labour rights. These themes are low wages, the absence of freedom of association, and temporary employment. The analysis and the case studies which make up the current report provide a brief description of these three themes. Through workers' testimonies, we are able to understand the hidden human cost behind labour instability and low wages, while the analysis investigates the root causes producing and reproducing these situations, including the dynamics of the market and poor corporate and government policies. Finally the report suggests some possible solutions and recommends concrete steps for the government and the companies to prevent a further deterioration of the conditions of Mexican workers.

The fact that this report concentrates on these three themes does not mean to say that other challenges do not exist as well. Discriminatory practices, humiliating treatment, sexual harassment

and the use of toxic substances exist even in Mexico's electronic industry and it is important to give them attention. However CEREAL is convinced that many of these problems could be resolved very easily if the workers were able to organise themselves into genuine unions and press for improved job security and better salaries. In this context, the imminent reform of Mexico's federal labour law is of great significance. Although it is indisputable that the Labour Law needs to be adapted to the new circumstances of today's world, at the same time it is clear there is a risk that our legislators might approve a law which leaves workers practically defenceless in the face of the enormous presence and influence of transnational companies. We should not fool ourselves into believing that attracting more international investment automatically means the creation of more jobs. It is important for us to realise that these jobs need to represent decent work and that action is needed to avoid the situations specifically highlighted in this report: wages that are not enough to live on, job instability, and workers afraid to ask for their labour rights to be respected.

Issues and labour cases in Mexico's electronics industry, 2010-2011

INSUFFICIENT WAGES

LOW WAGES AND HIGH PROFITS IN THE ELECTRONIC INDUSTRY

On numerous occasions, non-governmental organizations (NGOs) and unions have highlighted the fact that wages in the electronic industry are excessively low. The basic claim of these organizations is that it is not possible to live on the wages paid by the electronics industry. According to the International Labour Organization (ILO), an adequate wage should be adequate to meet the needs of workers and their family¹. Starting from this premise, we will see that the numbers we are about to present demonstrate that the wages of electronic industry workers are unequivocally insufficient. But how insufficient are they? Is it possible for companies to pay more?

Electronics industry companies by and large locate their factories in developing countries, such as the

Philippines, Thailand, Mexico, China and Brazil, where the cost of labor compared to developed countries is low. The average wage of an electronics industry worker in developing countries is around 7 USD per day. It is

evident that this amount is not sufficient to support a decent standard of living for a family. Nevertheless, the insufficiency of a 7 USD daily wage varies across countries given the respective cost of living in each country.

Table 1 presents a list of average wages earned by electronics industry workers in the main countries where electronics products are manufactured. The Table reflects that while wages are low everywhere, there are

Chart 1

Average wages of production workers in the electronic industry in 2011
.....
Selected countries

Country	Daily wage in national currency	Daily wage in US dollars	Purchasing power
United States	80 USD	80	100%
Brazil	28.5 R\$	15.8	80%
Malaysia	25 RM	8.3	80%
Mexico	100 Pesos	8.3	50%
Thailand	80 Baths	6	60%
Indonesia	54 Rupias	6	40%
China	40 Yuanes	5.3	90%
Philippines	22.6 Pesos	5	80%

Note: produced on the basis of a questionnaire by CEREAL amongst NGOs in the countries mentioned.

significant purchasing power differences between countries. As expected, China has one of the lowest nominal wages. Yet, accounting for the purchasing power of these wages, this Asian country rises in the ranks. Indeed, the nominal wage for electronics industry workers in China is lower than average, but is sufficient for Chinese workers to purchase 90% of a basic goods basket. In contrast, the monthly wage of a Filipino, Thai, Mexican, and Indonesian worker can only cover 80%, 60%, 50% and 40% of his or her basic needs, respectively.

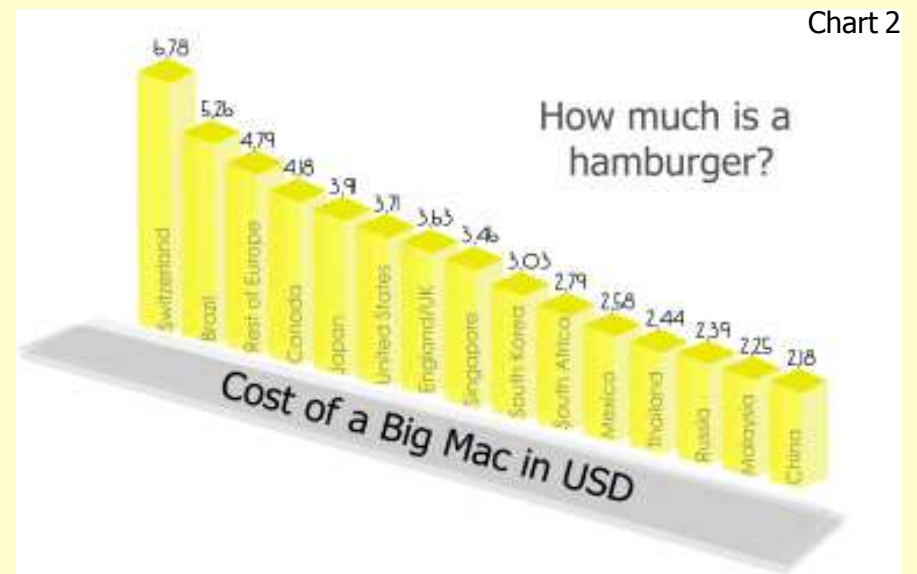
Several studies have analyzed purchasing power differences in-depth. Among them, the most popular is the "Big Mac index", which seeks to illustrate cost of living differences across countries (refer to Table 2). According to the October 2010 iteration of the index, in Mexico a Big Mac cost 70% of what it costs in the United States; in Thailand 65%; and in China 58%. Another purchasing power parity measure calculated by UBS, a Swiss financial services

company, expands upon the findings of the Big Mac index, providing a more telling comparison of purchasing power across countries. The UBS measure reflects the amount of time a worker must labor to buy a certain product, including a Big Mac. Table 3 highlights that a Mexican worker must work more than 2 hours to buy a Big Mac, while buying the same burger in the United States requires only 8 minutes of work. In other words, while it is true that the cost of a Big Mac is 30% lower in Mexico, it is also true that to buy a Big Mac, a Mexican worker must work 9 times longer than a US worker. This reality emphasizes the imbalances between countries regarding the relationship between wages and cost of living.

Unfair wages

There are diverse political and economic factors that cause this reality; most of which are rooted in the way governments and markets function. Many governments, in an effort to

Chart 2



To account for differences in purchasing power of money in different countries, The Economist magazine created the Big Mac index. The name refers to the most popular hamburger from the fast food chain McDonalds and was elected as reference because that particular food is produced and consumed in many nations alike, which made it a preferred indicator for comparison.

Chart 3

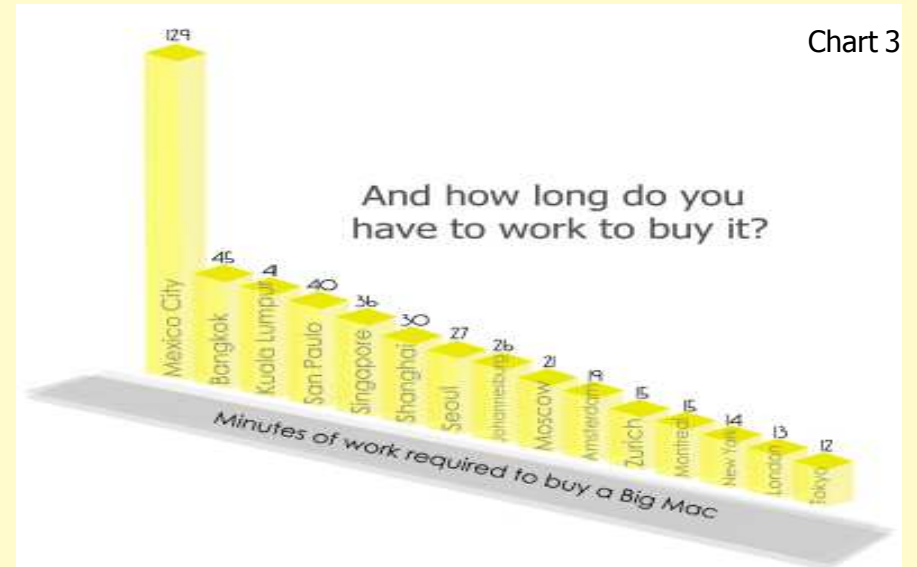


Chart 4

Weekly cost of basic foods in Mexico for a family of 3 members.

Article	Total expenditure per week (USD)
 Tortilla	6.4
 Beans	1.6
 Sugar	1.5
 Oil	1
 Dairy	10
 Meat	14.1
 Bread	1.6
 Egg	1.5
 Tuna	1.2
 Fruits and vegetables	12.5
total	61

The average weekly wage of a worker in the Mexican electronic industry is 70 USD (10 per day), so it is hardly enough to buy basic food.

attract foreign investment, have established legal minimum wages that are insufficient to cover workers' basic needs. Many companies locate their factories in these countries to take advantage of low labour costs, consequently leading to a race-to-the-bottom dynamic that continually pushes wages down. Many euphemistically refer to this phenomenon a "competitive advantage". Some electronics industry companies seek to counter criticisms that they pay low wages by arguing that they adhere to the legal and commercial norms of the countries in which they operate. However, these wages –although legal- are insufficient to meet basic needs.² Thus, what really matters here is not only whether the wages companies pay are legal or commercially accepted, but also whether they are fair in relation to company profits and the quality of life they afford workers.

Some years ago, several NGOs launched a campaign called "Clean Clothes" to explore this

area of inquiry in the garment manufacturing industry. Specifically, the organizations researched and subtracted the production cost from the retail price of certain products, and then compared company profits to the wages of the workers making these products. As is well known, the results gained significant attention given that manufacturing wages were outrageously low compared with the excessively high profits.

In the electronics industry, companies have established a tool known as the Bill of Materials (BOM) to calibrate their production costs. The BOM is a list of the components, and their respective market prices, needed to produce new electronics equipment. The process of assembling electronics equipment is complex, and in turn so is completing a product's BOM. Nonetheless, when planning the production of a new device, companies always use the BOM as a means to define and control production costs, as well as to establish the retail price of the

product and a baseline estimate of profits.

With an emphasis on wages, the following paragraphs explain how the BOM development process works and highlight how the BOM is developed and used in practice as related to the production of a mobile phone.

Although the BOM is a list of materials, its function it is not constrained to accounting. Its main purpose is to set limits to production costs. A brand name company develops a product's BOM. Product manufacturing firms (note that most brand name companies do not manufacture their own products, but contract other companies to do so) are aware that they cannot go over the established BOM costs. In fact, a main reason brand name firms develop a BOM is to ensure that their manufacturing subcontractors are on the same page in regard to production cost limits.

Let us look at an example: The total BOM of a mobile phone is

100 USD. The BOM indicates that 90 of the 100 USD are earmarked for materials; the remaining 10USD are for manufacturing costs, including labor. The costs of the materials defined by the BOM cannot be controlled because they are bought from third-party companies. Therefore, the main task of manufacturing companies is to ensure that they do not exceed the 10USD manufacturing cost per unit. In other words, any manufacturing firm, whether in Mexico, China, Indonesia, or Thailand, that wants to secure production business from brand name companies must comply with the 10USD per unit manufacturing cost limit. Importantly, manufacturing firms only assign a fraction of the 10USD to wages, given their fixed costs and profit margins.

From the point of view of business, the BOM is quite logical because setting limits to production costs helps them obtain planned profits. Yet, it is unfavorable to workers given that the BOM sets the amount available to cover labour

costs very low. Let us remember that the average salary of an electronic industry worker is 7 USD daily. A worker will produce an estimated 20 mobile phones during a day's work. As such, at the end of the day, a worker will receive only 35 cents for each mobile

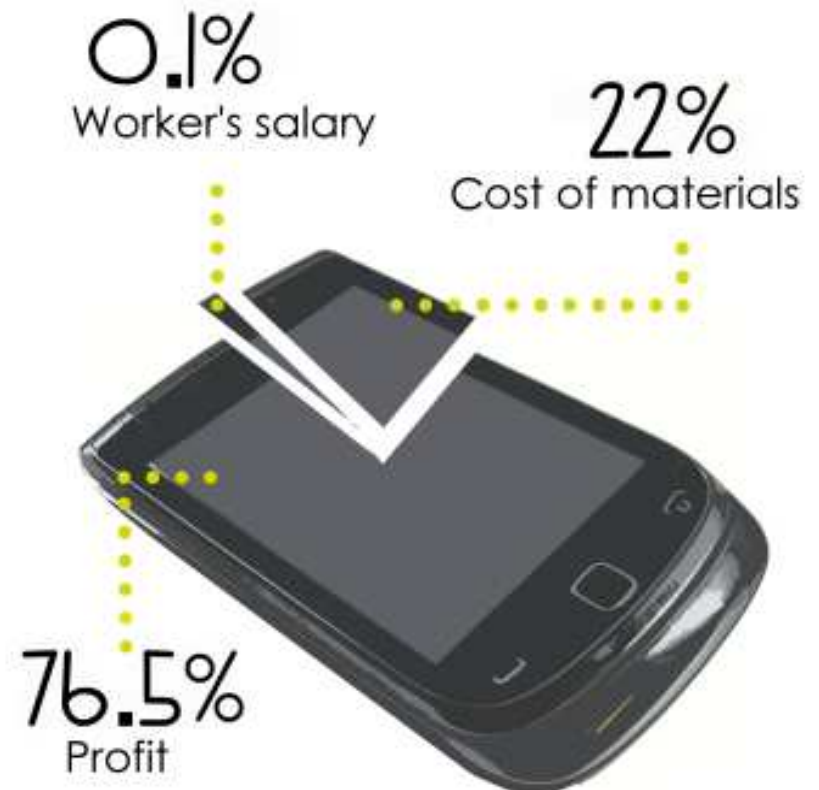
phone he/she produces. Clearly the low cost of labour leaves more than enough room for profits for both manufacturing firms and the brand name company. To be clear, the argument is not against company profits, but against the low wage levels that do not allow



Chart 5

Who gets the profits?

The average cost of a smartphone is of 642 USD. The distribution of these 642 USD is the following:



CEREAL estimated that each mexican worker receives 64 USD cents to assemble a mobile

workers to live decently anywhere in the world. Regardless of the differences of purchasing power of these wages in the different countries, it is not enough to live with dignity in any of those places.

So, going back to our main concern: Are companies really unable to pay workers more? Is it true that raising wages will put them at risk of economic failure? What is the final price of a phone and how much will the brand company profit from it? To answer these questions, we will look at a real case of a mobile phone assembled at a factory in Guadalajara until the beginning of 2011.

In April 2011, the mobile phone Blackberry Torch 9800 could be bought on Amazon.com in the US for 535USD. This phone was being assembled in a Jabil factory located in Guadalajara where a worker's daily wage is 10USD. Although each worker is in charge of different tasks along the assembly line, the average number of mobiles phones

assembled daily by each worker was 17. According to the website iSupply, which specializes the analyses of electronics industry supply chain costs, the total BOM for the Blackberry Torch 9800 is 183.05USD; that is: 171.05 for the materials and 12 USD for manufacturing. This leaves an estimated profit of 352 USD per unit.

In Chart 5, we show the percentages of this estimate. It is clear that while the wages of the workers are very small, the profits of the brand company are surprisingly big. Is this fair? Absolutely not. Analyzing other electronics equipment utilizing the same method, CEREAL concluded that frequently, the final price of an electronic device is 300% higher than its production cost, which means that for each product going to the market, the worker gets around 0.1% of the final price, and the brand company gets 75% of the profits related with this final price. Of course this company has to pay taxes and operation costs, but even then is left with a huge profit.

To conclude this example, note that RIM announced that in the last fiscal year –which ended on February 26th, 2011- it made a total of 3.4 billion dollars in profits. During that same period, RIM sold 52.3 million mobile phones, which leaves a profit of 65USD per unit. This means that, on average, each Blackberry phone bought in 2010 represented an estimated 65USD in profits for RIM and 6 cents (0.06 USD) for the worker that made the phone.

Mexico's case

Looking at this from the humane perspective, what are the consequences of paying wages this low? There is no doubt that the huge profits electronics industry companies make are products of these low wages. It is also important to analyze this reality further. Specifically, how can electronics industry workers in Mexico make ends meet with these wages?

The average wage of an electronics industry worker in Mexico is

10USD per day, a wage that according to CEREAL's estimates only covers 50% of a worker's basic food basket, which excludes costs related to transportation, education, housing, clothing and recreation. To have a better idea of how workers survive on these wages, we present a worker's testimonial. Ana has been an electronics industry worker in Guadalajara for the past 12 years.

Examining Ana's testimonial closely, we can see that her wage only covers four basic needs: food, transportation to go to work, clothing and education for her daughters. Importantly, note that Ana's budget does not include housing or recreation because she lives with her parents and never goes out to the movies or to eat at a restaurant. Even under these conditions, her wage only covers 74% of her basic needs. To cover the rest, she has to have a second job. If Ana had to rely solely on her wage at the factory, she would need to work approximately 12 hours per day; this is the reason many electronics industry workers

Insufficient wage: Ana's story

Ana. Age: 40. Single mom with two daughters.

I've been working for Universal Scientific International (USI) for twelve years. I got this job in 1999, working in the assembly of electronic equipment. I earn 825 pesos weekly (around 68 USD).

This is Ana's household expenditure:

Food	285
Transport	77
School	1428
School Supplies	107
Landline	35
Cell phone	21
Gas	17
Clothing	35
Rifa ³	71
Total expenditure	79
Deficit	205

My weekly expenses add a total of 1,113 pesos. My earnings as a worker at USI (825 pesos) are not enough. To make ends meet, I have to work two days a week cleaning houses and that's how I can an extra 360 pesos (around 30 USD). In the case of an unexpected event, I have to borrow money. I can't go to the movies or to a restaurant; I don't have money for that. I don't have savings. When they give my tanda, I use it to pay my debts. This year I've been borrowing money heavily because the doctors had to some medical tests that would take months to do in the Social Security (IMSS). These tests are to check what's wrong with my foot. It hurts, but I still don't know why.

work a significant amount of overtime hours.

Footnotes

1 http://www.ilo.org/empent/Areasofwork/business-helpdesk/faqs/l_a_n_g_-_e_n/WCMS_DOC_ENT_HLP_WAG_FAQ_EN/index.htm

2 In fact, Mexican minimum wage is below the official poverty line, set by CONEVAL (National Council for the Evaluation of the Social Development Policy), following the guidelines provided by a plural committee of researchers specialized in poverty (and inequality) measures. This is quite a contradiction in itself because minimum wage is defined by the Mexican Labour Law (art. 90) as "the minimum amount in cash that should be paid to a worker as a day salary. The minimum wage should be enough to provide for the regular needs of the head of a household in the material, social and cultural realms, and to provide for the mandatory education of his (her) children".

3 "Rifa" are some of the names for rotating savings and credit associations amongst poor people in México. "Meetings can be regular or tied to seasonal cash flow cycles in rural communities. Each member contributes the same amount at each meeting, and one member takes the whole sum once. As a result, each member is able to access a larger sum of money during the life of the Rifa, and use it for whatever purpose she or he wishes. (Stuart Rutherford. *The Poor & Their Money* Oxford University Press, Delhi, 2000).



FREEDOM OF ASSOCIATION ACCORDING TO THE ILO

Convention 87 Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Convention 98 Article 1

- 1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.**
- 2. Such protection shall apply more particularly in respect of acts calculated to—**
 - (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;**
 - (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.**

Article 2

- 2. (1) Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.**
- 2. (2) In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.**

Lacking freedom of association

In previous reports, Cereal has reported the absence of genuine unions in the electronic industry in Mexico. In those reports, Cereal demonstrated that, while almost all electronics industry companies in Mexico have signed a collective bargaining agreement with unions, workers do not know that these unions exist, let alone that they are represented by them. We refer to these unions as ghost unions because they exist only on paper and do not function as authentic representatives of

workers' interests. In this report we discuss freedom of association broadly, meaning that we focus not only on unions, but also on the possibilities that workers have for associating, naming their own representatives and bargaining for better labor conditions with their employers. Generally, in Mexico, unions cannot be described as a workers' organization. In fact, most unions in the country do not represent or defend workers' rights. Paradoxically, and as strange as it may seem, nowadays in Mexico, some of the

most important worker organizations are not unions. Workers organizations fall under the rubric of other legal structures.¹ That is why the main focus of this section is to analyze whether there are sufficient conditions for authentic worker organizations, unions and non-unions alike, to emerge in the electronics industry.

Without a chance to defend their rights

Let's start with the basics. If authentic unions do not exist in the electronic industry in Mexico, then, who defends the workers of a company, when they are victims of abuses? The answer is simple: nobody does. Inside the factories there is no one who represents and defends worker interests, so when they need to defend their rights, they have to hire a private lawyer. Of course, this requires incurring costs that

the majority of the workers cannot pay and, because of that, many of them do not even try.

The absence of "genuine" worker representatives within the factories is, to a large extent, the result of company actions. By signing a contract with a ghost union, companies create legal barriers that prevent authentic worker organization. The lack of worker representation has led companies to implement internal communication systems to attend to workers' complaints. Each company has different mechanisms; although some are well-planned, there are always some workers who don't feel comfortable using them. As most of the abuses come from companies themselves, many workers don't believe that the same companies would defend their interests and remediate the situation. From our statistics, each year around 2000 workers

come to Cereal's office asking for help and another unknown number go directly to the Labor authorities to sue the companies. As the company internal mechanisms are not enough to solve workers' complaints, it is logical to think that it would be better to have authentic workers representatives in the factories. So why is it that they do not exist? This question takes us to the next topic: lack of possibilities for authentic worker representation.

Lack of representation

Companies sign collective bargaining agreements with ghost unions not only to prevent a genuine organization of workers, but also to avoid unions that blackmail companies by filing legal suits in an effort to obtain large sums of money from companies. Unfortunately, in Mexico these latter types of unions also exist. Usually, one person or a small

"Governments, for reasons of economic utility, often limit the freedom or the negotiating capacity of labour unions. The repeated calls issued within the Church's social doctrine for the promotion of workers' associations that can defend their rights must therefore be honoured today even more than in the past"

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group of people whose sole interest is monetary gain register and lead these unions. It goes without saying that these unions don't represent workers' interests. Against this backdrop, companies seek to sign collective bargaining agreements with ghost unions. These agreements are known as employer protection contracts, because they protect the companies against genuine and blackmailing unions. Beyond the reasons for which companies sign protection contracts, our main concern is that these contracts impede the ability of workers to choose their own representatives. Today, there are even unions that, in exchange for money, offer protection contracts to companies openly. In other words, they don't even try to hide their true intent from workers, which is to represent employer interests. As such, while these unions don't function as ghost unions per se, they don't defend workers' interests because their

objective is the same as that of ghost unions: to protect a company not its workers. As a case in point, Nokia's worker's union provides an example of the practices used by one of these unions. The union is publicly known, but according to workers' testimonies, which have been corroborated by independent research, the Finnish company controls the union.

Cereal has spoken with more than 20 electronics industry companies about the challenges protection contracts create for genuine worker representation. Asked directly, all these companies have answered that they would never consider desisting from the use of protection contracts signed with ghost unions. Their main reason cited by companies is that if they would otherwise be exposed to attacks by blackmailing unions. In this situation, is it impossible for workers to organize themselves

and choose their representatives? No, it is not. In 2010, Sanmina SCI designed a program to support freedom of association in their plants in Guadalajara. This program does not contemplate ending the company's protection contract with the ghost union as, from this company's perspective, it could be very risky to do so. The program includes only the development of capacity building efforts and collective representation mechanisms that, in theory, would allow improved representation of the workers. At the time of writing this experimental program has not yet started and therefore it is not possible to assess its results, but if it is run successfully it has the potential to benefit up to 12,000 workers.

Lack of will of companies.

In any case, electronics industry workers' possibilities for

"What is meant by the word "decent" in regard to work? It means work that expresses the essential dignity of every man and woman in the context of their particular society: work that makes it possible for families to meet their needs; work that permits the workers to organize themselves freely, and to make their voices heard."

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collectively defending their labor rights remain worryingly low. It is important to remember that in Mexico political and legal circumstances create extraordinarily difficult circumstances for the development and existence of genuine workers organizations. Legally, for example, all Mexicans know that it is very difficult to obtain legal permission to register a new union, especially if that union seeks to genuinely represent workers. A broad network of corruption, inclusive of government bureaucratic institutions and the highest political levels that bargain with ghost and blackmailing unions, makes it almost impossible for workers to succeed in registering a new union. Furthermore, those employer protection contracts are a widespread phenomenon in Mexico. Recent figures from the FITIM highlight that more than 90% of collective bargains in Mexico are protection

contracts, which shows the difficult situation that workers face in the country. In March 2011, the International Labor Organization (ILO) officially recommended that the Mexican Government take measures against employer protection contracts, making clear that the problem is profound. Of course, the phenomenon of protection contracts has a deep cultural impact on Mexican workers, as many of them don't want to have anything to do with unions. But, all Mexican workers want their rights to be respected; there is no doubt about that. The problem is that many of them don't know how and don't have the tools to achieve this aim.

Besides governmental and union corruption, companies are the ones that actively seek out ghost unions with which to sign protection contracts. Precisely for this reason, companies are party to a situation that blocks possible

responses to this impasse. To begin with, we have to be realistic and accept that changing this situation can't be done quickly; that is: we have to understand that it is not possible to eliminate all protection contracts in the blink of an eye or remove all of the corrupt bureaucrats in one day, not even with a broad reform of the country's Labor Law. There are deep political, cultural and economic reasons that prevent automatic changes. It is important, then, that companies implement alternative means for worker representation and participation beyond this national situation and through which workers can defend their right of freedom of association.

First of all, companies need to have the will to find solutions. While recognizing there are particular challenges to achieving freedom of association in Mexico, it is clear that these

"While reflecting on the theme of work, it is appropriate to recall how important it is that labour unions — which have always been encouraged and supported by the Church — should be open to the new perspectives that are emerging in the world of work. the union organizations are called to address some of the new questions arising in our society"

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problems are not only due to the national context. Electronics workers in many other countries such as Thailand, China and Malaysia also face difficulties when they try to form independent unions. Lack of freedom of association is widespread within the global electronics industry.

Currently there are the first signs that some companies, such as Sanmina SCI, are looking for options to let workers have a voice, as well as the company remediate their grievance. However, the majority of electronics industry companies are not prepared to let their workers organize and present their demands. The case in Jabil, included in this chapter, demonstrates this reality. In this company, a group of workers mobilized to demand a solution to a salary situation. In the view of the workers, that led directly to the firing of many workers.

Unfortunately, there are many similar cases throughout Mexico. Cereal has already reported many cases like this one in former reports. Actually, for many years now, there is a non-union organization called CETIEN, which is formed by electronic industry workers and has presented workers' demands on many occasions. Yet, companies simply do not want to talk with this group because they consider it to be radical.

So, what can we expect if most of the companies don't tolerate workers organizing to claim their rights? From Cereal's perspective, it is important to recognize that these are fundamental human rights of workers so the situation cannot be ignored. Right now companies could take a step forward on the issue of freedom of association. This is not about eliminating all protection contracts, or changing one union for another, it's about

implementing capacity building efforts, revising internal communication mechanisms within companies, guaranteeing that there are no retaliations against workers that make claims and/or organize themselves to defend their rights, understanding that groups of

organized workers can give ideas to improve the companies themselves, and, most importantly, listening to and remediating workers' demands and complaints.

1 For example in Mexico these legal structures could be civil associations or simple workers coalitions.



Nokia: A trade union run by the company

At the same time Nokia began operations in Reynosa in 1998 a “trade union” was formed (Nokia Workers’ Union) to “represent” its workers. Today the union has around 1,200 affiliated workers. Since its establishment 15 years ago, and to this day, the secretary general of the union has been the same person: Mr. Jesús Martínez. Strange as it may seem, Mr. Martínez has never been a worker for Nokia, a requirement of Mexican law to become the leader of a union, but is nonetheless the legal representative of the company’s workers.

Unlike other unions in the industry, the workers know that this union exists but they don’t feel represented by it. Based on research conducted by CEREAL in 2010, the workers claim that

the company regularly intervenes in the affairs of the union, with full consent of the union’s leader, a clear violation not only of Mexican law, but also of international conventions established by the International Labour Organization (ILO).

According to workers, during the process of hiring of any production worker, Nokia informs applicants that they first have to go to the union’s offices (across the street) and become a member. If the worker doesn’t become a member of the union, the company simply denies him or her the job.

This is not the only piece of information that raises suspicions among the workers that the union collaborates with Nokia. As incredible as it may seem, the Nokia management and confianza¹



employees attend the union's yearly assembly held to elect the union's executive committee, a clear violation of Mexican law, which states (article 336) that "no confianza employees can join the union". Although production workers attend the assembly, Nokia does not invite workers hired by employment agencies to attend. This constitutes an act of discrimination against them, because they are also members of the union and, in fact as reflected in their paychecks, also have 16 pesos deducted from their weekly salary to cover a "union fee." During the course of the assembly, voting is done by raising hands in the presence of the company's human resources employees, which hinders the freedom of workers to express their vote anonymously. As the workers themselves explain, practically no one dares to vote against renewing Mr. Martínez's leadership term, fearing retaliation from either him or the company.

This illegal intervention in the life of the trade union was denounced in 2008 by the Trade Union Solidarity Centre of Finland (SASK) and by the Mexican NGO CILAS, but the anomalous situation prevails. Nokia's Ethical Code states that: "Nokia

acknowledges, following the international consensus, that certain human rights must be considered universal and fundamental... among those rights is the freedom of association and thinking". "Nokia has a clear commitment with the highest standards of ethical conduct and is in compliance with applicable national and international laws".

Nokia's response:

In a written reply, Nokia told Cereal that employees probably confused the meetings that the company's Human Resource department held for the union assemblies. However, when we re-interviewed the workers, CEREAL found that employees were not confused and could easily differentiate between the two types of meetings. The workers also confirmed the presence of representatives of the Human Resources department in union meetings. In its response to Cereal, Nokia also states that there is no discrimination as related to attendance at the union's assembly and that all, including both direct and agency workers, are welcome to attend. Regarding this point, agency employees

note that although they are charged membership dues, they are not invited to the union assemblies.

Nokia recognizes that voting by show of hands is an anomalous situation and says that it has talked about it with the union, but there has been no response from the latter. Nokia confirms that the workers are indeed asked to join the union before being hired, but explains that Nokia does so because there is a clause in its collective bargaining agreement that mandates that workers hired by the company must be members of the union. Nokia claims to have had talks with the union leader, Jesus Martinez to try to remove that clause in the contract. It should be noted that in 2001 the Supreme Court of Mexico ruled unconstitutional

Article 395 of the federal labor law that allowed the inclusion of such clauses in collective bargaining agreements. Thus denying employment to a worker for not belonging to a union violates their constitutional rights.

In this respect CEREAL considers that Nokia should be much more careful and, as far as possible, should not allow these kind of unlawful actions. A strict adherence to the law is the first step in creating conditions for genuine freedom of association.

Footnotes

¹ Mexican Law distinguishes between confianza and non-confianza workers. The functions of "confianza" workers include " management, supervision, inspection, vigilance and auditing, when they have a general character, and those functions related to carrying out the particular tasks of the employer within the company or establishment." (Art. 9, Mexican Labour Law).



Blackberry and Jabil

Fired for demanding recognition of their labor rights

It all started as a simple request for information. In April 2010, workers from Diagnosis Area in Jabil's Guadalajara plant, discovered that they had received varying wage increases. Some of them received a 9%, while others just 2% increase. They didn't know why, and so they decided to ask the company's management. The responses from the company's management were varied and inconsistent; they did not seem good enough. As such, the workers suspected that the difference in wage increases was a sign of discrimination. The following month, 14 affected workers filed a legal case against Jabil requesting wage equity. One and a half years later the case has still not been resolved. They

invoked, as the basis of their claim, the Universal Declaration of Human Rights, which in its 14th article establishes the principal of equal pay for equal work. Their claim was also against Blackberry, the brand for which Jabil and the workers were producing equipment.

It was soon clear that, besides the problem of wages, there was an even bigger problem: lack of communication. The company told them that the disparate raises were the result of an evaluation system that identified good work that was rewarded with a higher wage increase. According to Jabil, the system has a long track record of being used in the plant, so workers should not be surprised by



differences in wage increases. Nevertheless, none of the workers that CEREAL spoke to knew about the system, not even the ones who had worked for Jabil for more than 10 years. According to the workers, the company was trying to mislead them with these explanations. They decided then to begin a mobilization in the plant to get more workers to join their legal claim against the company. The mutual accusations from both the company and the workers escalated and, in October 2010, the company sacked three of the female workers who had sued Jabil. According to the company, these three workers had put pressure on and insulted their co-workers trying to make them join the legal case, something which the workers deny. Jabil thought that it was a strong enough reason to fire them. CEREAL asked Jabil to reconsider its decision and reinstate the workers at least until the wage issue was resolved. Jabil refused to acquiesce to this request and, in turn, these workers sued the company, this time demanding their jobs back. In January 2011, Jabil changed the system for

establishing wage increases. Cereal was able to establish that this new system included important improvements compared to the former system, especially in terms of communication strategies with workers. Nevertheless, for Cereal there is no doubt that these improvements were possible mainly because of the persistence of the workers who began their mobilization asking for transparency and equal working conditions. However, the three dismissed workers have not been reinstated and, at the time of this writing, their claim for equal pay for equal work remains an open case in the Mexican Labor Courts. The background to this case includes a very controversial fact: legally, there is a union in Jabil that workers don't even know about. It is a "ghost union". It exists in legal papers but does not represent the workers who work for the company that signed the contract with the union. What would have happened if Jabil's workers had had a real union that really represented them? Cereal believes that this conflict would never have existed.

Jabil and Blackberry's response

Cereal sent a copy of this case to Jabil and Blackberry. In its written response, Jabil avoided commenting on the details of the case, arguing that because it was a legal matter, it was for the authorities to resolve. Although Blackberry also responded in writing to Cereal, the company only mentioned that they hoped Cereal would get a satisfactory answer directly from Jabil.



TEMPORARY EMPLOYMENT

Temporary contracts are a legally accepted phenomenon in Mexico. Nevertheless, and as paradoxical as it may seem, most companies use temporary contracts illegally. In fact, the majority of workers that seek help from Cereal do so in relation to lay offs undertaken within the context of illegal temporary contracts.

Mexican law stipulates that the companies can hire workers temporarily when the nature of the job is also temporary. This means, for example, that a company can hire workers temporarily to construct a building or to organize an event, but also means that the law forbids the temporary hiring of workers to do a prolonged, open-ended job.

Many companies of the electronic industry hire workers temporarily in response to their production peaks and troughs. These

production extremes are, by nature, temporary. Temporarily hiring workers to respond to changes in production is considered legal. Based on its observations of hiring practices at many electronics companies, Cereal concludes that an estimated five to 30 per cent of temporary workers are hired for the purpose of responding to production peaks. But many companies hire more temporary workers than they really need; some hire up to 90% of their workers through temporary contracts. This does not mean, however, that there are more temporary workers than permanent ones in a factory; it means that many permanent workers are forced to sign temporary contracts over and over again. This is basically a deception: the companies treat permanent workers as temporary workers. This situation reflects the fact that a temporary



workforce represents lower layoff costs for the company because the law does not afford temporary workers severance pay. There are many ways to perform this deception. Some companies make their workers sign temporary contracts every three months, some every year, and some even go to the limit of making the workers sign contracts every two weeks or even every 7 days. But, aside from their length, the signing of back-to-back temporary contracts is prohibited by Mexican law. It is common practice to hire temporary workers through an

employment agency. Utilizing this practice, companies try to evade responsibility for labor rights violations, alleging that the agencies, and not them, are taking part in the illegal practices described. Importantly, according to Mexican labor law, both companies and employment agencies are responsible for making sure that the workers' rights are protected. The cases presented in this chapter highlight what in Cereal's view constitutes the illegal use of temporary contracts by many electronics industry companies in Mexico.

Philips and Benchmark:

temporary workers, unstable jobs and no vacation



Benchmark Electronics, headquartered in Angleton, Texas, has a factory in Guadalajara, where it employs about 1,200 workers. Benchmark offers outsourced manufacturing electronic components to a variety of brand name companies. At its facilities in Guadalajara, Benchmark has several projects, including one that

produces equipment for the multinational Dutch company Phillips. According to information gathered by CEREAL, Benchmark in Guadalajara subcontracts approximately 50% of its staff through the employment agency Azanza. Workers interviewed by CEREAL reported that they are issued with a one-year contract by Azanza, and at the end of this

contract Azanza makes them sign a letter of resignation. At that time workers become unemployed and, therefore, no longer earn a salary. The agency then asks them to go home and return after a week. Azanza calls that period in which workers do not go to work a "vacation." After a week when the workers return, Azanza then rehires them through another one-year contract.

According to Mexican law, this practice is illegal. Articles 33, 48 and 51 of the federal labor law stipulate that workers' employment cannot be guaranteed only in exchange of a signed resignation letter, nor can the company fire them unreasonably and without a severance payment. To make matters worse, in the case of Benchmark, these workers were not allowed to enjoy their holidays in accordance with the law, that is, with pay.

The constant layoffs, which in Cereal's view are disguised as resignations, and subsequent re-hirings by the agency, prevent workers from achieving seniority, a fact that also seriously undermines the rights of workers because in Mexico many rights

(such as pension settlement and holidays) are related to the time a worker stays at a given job.

Philips' and Benchmark's responses

In April 2011 CEREAL sent a copy of this case to Philips, Benchmark and Azanza. At a meeting which CEREAL held on May 3rd with Azanza and Benchmark, both companies denied that the events described in the case were true. In fact representatives of these companies even claimed that this version of events was part of a plot by people whose aim was to discredit the employment agency Azanza.

In a written communication addressed to CEREAL, Phillips gave no explanation about the case, arguing instead that each firm, in this case Benchmark, was directly responsible for what they did.

During May 2011 Cereal interviewed about 30 contract workers for Azanza and they confirmed that they were indeed forced, by the threat of not being hired again, to sign a resignation letter and, after a lapse of one week, were rehired.

Lenovo: 65% temporary workers

In 2007, Lenovo began building its first plant in Mexico, in Apodaca, Nuevo León. Days before the grand opening, Lenovo announced that this new plant would create a thousand new jobs directly and another thousand indirectly. After two years, in 2009, the company finally opened the new plant. The Mexican press welcomed this event, because it would help create employment in the country. Nevertheless, once the factory started its operations, research by Cereal showed that labor conditions in Lenovo were far from being the best. According to data from Cereal,

currently Lenovo has about 1000 employees, of which 65% are subcontracted, temporary workers. This extremely high number seems to be impossible to understand, because the usual justification from the electronics industry is that companies hire subcontracted, temporary workers just to deal with production peaks. In practice this means that during some months of the year, 20, 30 or even 60% of workers are temporary. But, in Lenovo it is not so. The company hires temporary subcontracted workers throughout the whole year, representing 65% of the total



workforce. In Cereal's view this has nothing to do with production peaks, but with a much more simple fact: it helps the company to avoid its responsibilities related to respecting labor rights.

This happens in the following way: Lenovo contracts services from three different employment agencies: Human Quality, One Digit and Cosea, all of them with offices in Apodaca. Lenovo and its agencies offer temporary contracts. Once the contracts expire, the company may offer a new three-month contract. But the company does not rehire all workers. Some of them are not

rehired, and, as they are temporary workers, the company does not pay them a severance payment and sends them home empty-handed. This is a story that happens frequently and the result is that CEREAL estimates Lenovo does not pay severance to hundreds of workers that, according to the law, should have received this payment.

During the research, CEREAL was able to collect testimonies from employees that have signed 5 or more temporary contracts in just one year, and from other workers that were hired two years ago and have been forced to sign consecutive temporary contracts

to this day. In all these cases, the workers live in fear and anxiety because at the end of every three month contract the company can simply tell them that they have lost their job. Gaby, a former Lenovo's employee, explains this situation: "the company adjusts their personnel every two months which means that the contracts are only valid until Lenovo says 'it's over'." To make it worse, the salary that production, storage and distribution employees received in Lenovo is 98 pesos a day (8 USD), that is completely insufficient for acquiring the basic necessities of life in Mexico, and one of the lowest wages in all of the electronics sector in the country.

In Lenovo there is also a job position known to workers as "cubre-faltas" (absentees substitute), a role that does not exist in the Federal Labor Law in Mexico and one which CEREAL believes to be a misuse of company power over workers. An employee who has this job explains: "I am a cubre-faltas. I go to the plant every day and if someone is absent I cover his/her work, but if everyone is there, they send me home without remuneration.



Mexico's President Felipe Calderon at the opening of the new factory of Lenovo

Lenovo's response

In a meeting held by Cereal and representatives of the company in May 2011, Lenovo recognized that the majority of employees at its factory in Apodaca are temporary. Lenovo claimed that due to fluctuating production model in three levels of productivity, it is difficult to have a stable workforce, since one can not anticipate the amount of products that customers will buy.

CEREAL believes that this justification on purely commercial grounds is not entirely true and it ignores the impact of such

practices on the lives and basic rights of the people being employed. At a minimum, the company should plan more effectively to reduce reliance on temporary workers and create more stable jobs. It should also ensure that when adjustments in personnel are needed, these are made in full compliance with Mexican law and with respect to the rights of their workers.

CEREAL has repeatedly highlighted the abuse of short-term contracts within the electronics industry. At

a meeting with the EICC and CANIETI in April 2010 to discuss this persistent problem, CEREAL asked, as a first step, for all electronics industry companies to publish data regularly on what proportion of their workforce is hired indirectly through employment agencies and what proportion have temporary contracts. This information would make it very clear what kind of jobs each company was creating in Mexico. So far EICC and CANIETI have not provided this information.

Nokia and Manpower: seven day contracts

In Nokia's factory, based in Reynosa, more than 500 workers are hired by the agency Manpower. The following testimonies from two female workers reveal a situation of extreme job instability affecting most of these 500 workers. The testimonials cover a wide range of time, highlighting that the illegal policies of human resources management described here –carried out by Nokia and Manpower– have been systematically used for several years, violating the rights of hundreds of workers.



Lupe's story

"I work for Nokia, hired by the agency Manpower. In a period of three years I have been hired and fired by Nokia on five occasions. During this time I have signed several seven day contracts. At the end of each contract they just tell me that there is no more work, only to hire me again a couple months later.

Presently, I'm working for Nokia, signing seven day contracts. I'm aware that in Nokia the employment is uncertain and instable, but I'm forced by my economic situation to accept this."

María's story

I started working at Nokia in March 2007. Almost a year later I got fired without severance pay. At the moment of getting fired, someone at the agency told me: "if you want to work for Nokia again, you'll have to wait at least six months before we can hire you again".

When the six months went by I went to the agency Manpower to look for a job at Nokia. They hired me again on October 2008. I came back to work at Nokia, at plant #1, in the second shift. They gave me a contract for seven days and told me that they would dismiss me at the end if I wasn't needed. But the seven days went by and they gave me another contract and another one, and three months went by, always signing seven days contracts, up to December 2008, when they fired me again. They didn't give me severance pay that time either.

They hired me again to work for Nokia and kept signing seven day contracts for several months more, but in January 2010 they fired me again and like the other times I didn't get any compensation. After the last time I didn't go back to Nokia or Manpower. I didn't want to re-live this situation again.



Under Mexican law a company can issue a temporary contract to complete a specific piece of work only if it meets certain conditions e.g.: 1) the nature of the work so requires it, or 2) where this is intended to temporarily replace another worker. (Art. 37 Federal Labour Law). If these two conditions do not exist, the contract is considered to be for an indeterminate period of time. The Mexican Labour Law has clearly established that serial use of temporary contracts is illegal (Arts. 37 y 39 de la LFT. ¹) Therefore in CEREAL's view, to the extent that Nokia issues serial contracts simulating a labour relationship of a temporary nature, it violates the law. Federal Labour Law also provides that when an employee is wrongfully dismissed the company must pay their severance pay.

Nokia's response

In a conference call on 3 May 2011 with a Nokia representative, the company admitted that, due to its production model, it hires workers through 7 day contracts, arguing that it is common practice in Mexico and that at the moment it cannot do anything to change the situation. However CEREAL wishes to highlight that serial use of temporary contracts although widespread is in fact illegal under the current law.

Footnotes

¹ La suprema corte de la nación se ha pronunciado reiteradamente al respecto. Se citan dos criterios emitidos por la H. segunda sala de la SCJN publicados en el semanario judicial de la federación y su gaceta: De la novena época, septiembre 2009, tomo XXX, número de registro 166529, tesis jurisprudencial 2ª 123/2009. *Acción de prorroga o tiempo determinado. Corresponde al patrón la carga de la prueba de la insubsistencia de la materia del trabajo que originó la contratación relativa.* De la novena época, septiembre 2009, tomo V, número de registro 915586, tesis jurisprudencial 2ª 449/2009. *Prórroga del contrato de trabajo, improcedencia de la excepción de contratos sucesivos opuesta contra la acción de (interrupción y modificación de la tesis jurisprudencial número 54, publicada en la página 54, compilación de 1975).*



In October 2011, Nokia announced it would lay off 3,500 employees worldwide as part of an organizational restructuring of the company.

CELESTICA AND BLACKBERRY: HUMILIATING TREATMENT

Celestica, a Canadian multinational company, has a plant in Reynosa, Tamaulipas, near the border of Mexico with the United States. In this factory, Celestica hires nearly 1,200 workers and produces electronic equipment, including Blackberry mobile phones.

From June 2010, Celestica introduced a policy called "zero metals", with the purpose of preventing workers from stealing electronic equipment from the factory. To implement this policy, the company installed metal detectors to scan workers. Because of this the company asked the workers not to wear

clothing with metal (or any kind of metallic devices). The workers are scanned everyday when they come in and out of the factory. Whenever a worker sets off the alarm of the detector, a security guard comes and proceeds to perform a worker inspection. In some cases workers are asked to partially strip.

A few days after the introduction of this zero metals policy, these inspections became disrespectful. Female workers complained that they were being treated disrespectfully during the procedure. Worker testimonials highlight that in some cases security guards made female workers get partially undressed



in the presence of other company workers. Many female workers using brassieres with metal underwire also claimed that the guards forced them to take off their bra, tear it apart and remove the metal underwire. They were forced to do this without proper privacy. Once the workers took the metal underwire out of their bra, they had to go under the metal detector again to ensure that the metal detector did not go off.

Several female workers interviewed by Cereal referred to one occasion at the end of September, when a fellow co-worker who was pregnant passed through the metal detector setting off the alarm. At once a security guard took her by the arm roughly, disregarding the fact that she was pregnant. The workers were outraged. The event set off an organized response.

The affected worker reported the incident to the company's human resources personnel. The person who met with her promised to fix the problem and warned: "There is no need to tell anyone else." Days later a union

representative who knew of the case filed a claim at the State Attorney's Office and filed a lawsuit for injuries. At the same time a group of union delegates began to collect signatures from their co-workers in order to demand an investigation and correct the abuses committed by the guards. Over 200 employees from different shifts signed the complaint. When the delegates presented the complaint to the human resources department, company representatives told them "not to walk around encouraging other workers to sign petitions." Unfortunately, as another of the workers concerned told CEREAL "the company began to fire them one by one including five workers in particular who led the movement. Of the workers who filed the lawsuit, only a few remain employed at the company. "

With little response from the company and union officials, workers decided to seek help from two human rights organizations. These organizations reviewed the demand for reinstatement that the union had prepared and advised workers to file a law suit

at the Mexican Labour Board. In 2011 three of the workers won their case against the company. In February after having won the lawsuit, 3 workers were reinstated but 2 were dismissed again. As one of the workers told Cereal, "This has diminished our strength as workers and now we don't know what to do. We are afraid of getting fired for standing up for our rights. There are no improvements regarding the inspections. We agree on the importance of safety, we should not wear metallic pieces in our clothing or metallic devices or items; but we only want to be treated with respect. We don't accept this kind of treatment, but it seems that we have no options other than to put up with this humiliation. We'll have to do it, we need the job".

Blackberry and Celestica's responses

CEREAL sent a copy of this case to Celestica and Blackberry. Celestica sent a written response to Cereal explaining the procedure followed during the metal detector screening. In a meeting

with CEREAL on March 3, the company said that in reviewing their video surveillance systems, they had found no evidence to corroborate the allegation made by the workers. Celestica also explained that searches were made with appropriate levels of privacy. But the most disconcerting statement in Celestica's version of events is that, according to the company, the signatures submitted by the workers along with the complaint had been cut and pasted from another document and inserted later in the written complaint. In the discussion with CEREAL Celestica suggested that the abuse had never been committed and that, therefore, the complaint filed by the workers was fake.

After that interview CEREAL followed up with a further investigation of the facts. Cereal researchers soon found about 30 workers and former workers who stated they had voluntarily signed the complaint against the abuses by the security guards. Additionally, Cereal corroborated that all versions of the interviewees agreed with each other, giving substance to these claims.

The fire at Foxconn



Dell and Foxconn: forced labour

On February 19, 2010 the company Foxconn hit the headlines once more when an alarming incident happened in one of the plants owned by this company at the industrial zone at Jerónimo, Chihuahua. The news noted that day that “employees of the company Foxconn participated in

a riot this morning in one of the plants where they even burnt down the cafeteria and smashed windows, according to them because company officials held them against their will to work overtime.” (Edición del Diario de Juárez, Friday, February 19th 2010). At that moment, more than 3,000 workers were doing

their job and producing electronic equipment, mostly for Dell.

Days after the event, the company issued an official statement explaining that the incident was “purely a reprisal plotted by a disgruntled former employee” and that workers who participated in the event had been manipulated. Other versions of what happened appeared in the local press during the following days, some expressed by union leaders and other local politicians, but in general all lacked one essential element: the voice of workers. In fact, in its official statement Foxconn claimed to have investigated the facts, but nowhere in that statement the company responded to the central question of whether they had really forced workers to work overtime.

An investigation by Cereal based on testimony from 16 workers who were present during the incident, showed a view of the facts very different from those which had previously been offered by the media and the company itself. The following

testimonies interwoven will tell you step by step, from the standpoint of workers, what happened during that night.

Background.

“I worked at Foxconn as an operator in the second shift. Came at 14:00 and left at 24:00. I was hired through OSA agency and made 595 pesos (42USD) a week. In Foxconn there are three recruitment agencies: COSEA, AOS and CASEM. ”

“Very often, without consulting us, we were forced to work overtime and then we had to chase the Human Resources department asking them to pay us the overtime, it was never paid on our payroll. It was always the same. ”

“In addition, usually our departure time was not respected. Supervisors always told us at what time we should stop the work line, but it was unpredictable, it could be our departure time or hours later. That was their way of forcing us to work overtime. ”

Facts

"On February 19, 2010, at 11:45 pm, our supervisor told us to stop the lines that it was time, that our shift was over; suddenly someone else, a person from Human Resources said no, we had to continue working overtime. However, unlike other times, none of us wanted to continue working. We discussed with supervisors and after a while we left the factory. "

"When we left, we got a big surprise there was no transport truck. Foxconn is located in an area far from the city, so the company transport is essential for us to get home."

"It was midnight and it was quite cold. For several minutes no one knew what was going on with the transportation, so we made a fire to keep us warm while we waited. Some coworkers went to Human Resources to ask what was happening and then Arturo Villalobos from HR came out to give us an explanation. He just told us to wait, not knowing what happened. "

"Time went by and the clock hit 2:00 a.m. at that time a manager came out and said, 'trucks have not arrived because there is a military checkpoint and it's not allowing the buses to pass. That is what is causing the delay, so it is better to just return to work while you wait'."

"None of us wanted to go back inside, we knew it was a hoax from the company to make us work overtime. Some coworkers, very upset, began yelling at the manager, 'you are liars,' 'we are not going to get to work,' 'we want to go home', 'we want the transportation', 'we're cold. "

"One of my coworkers had the phone number of one of the bus drivers, she called the driver to ask why they had not come and picked us up. The driver replied, 'we have the order by the company to go later because you have to stay to work overtime'. Again one of the managers came out and we told him what the driver had said but he told us that it was not true. We got even more upset and began

throwing stones and sticks at the cafeteria and gym, also threw brooms on the fire and that's why the cafeteria and the gym got burned"

"Minutes after the state and federal police arrived, patrols and even soldiers, who began beating our fellow co-workers. Some colleagues made it and ran, but still the police arrested about 10 workers. In the midst of the melee the soldiers shouted at us for being 'ungrateful, they employ you and yet you do all this,'

"At 5:00 a.m. transport arrived. Before we could get in the truck the manager came back and said, 'everyone is going to get pay three times their salary, but will have to sign a sheet on which we commit to accept this payment' and then apologized for that whole situation. Some colleagues did not agree to sign the sheet, as they feared that this sheet could be used against them. Others did sign.

"After this problem the company started to lay off groups of 50

workers, and little by little were firing almost everyone who was working the day of the incident on the grounds that 'there is no more work' or 'downsizing'.

"After this problem the company tightened security within the plant."

It is not at all unusual for workers in the electronic industry sometimes to be required to work overtime, for many it provides the opportunity to earn more income, however, what is of concern is when workers consider that they have forced to do overtime without their consent.

Foxconn's response

In the discussion that CEREAL had with Foxconn at the beginning of March the company repeated the same explanation as before – that an ex-employee was guilty of causing the incident. However after that CEREAL sought additional testimonies. These corroborated previous testimonies that the workers were required to work overtime that night.

CEREAL's corporate rating

Company	Position
Sanmina SCI	●
HP	●
Kodak	●
IBM	●
Technicolor	●
Lenovo	●
Phillips	●
Flextronics	●
USI	●
Continental	●
Alcatel	●
Blackberry	●
Foxconn	●
Celestica	●
Dell	●
Nokia	●
Jabil	●
Apolotran	●
Benchmark	●

References

- Excellent
- Good
- Average
- Adequate
- Deficient
- Poor

Methodological note:

In developing its corporate rating, CEREAL's experience of the following factors was taken into account: incidence and severity of cases; willingness to engage in dialogue; efficiency in resolving cases; structural changes which have been made to improve working conditions and the testimonies of the workers.

Recommendations:

To the Mexican government:

1. Ensure that any future reform of the Mexican Labour Law protects the rights of Mexican workers with regard to an adequate wage, freedom of association and job stability.
2. Follow the recommendations of the International Labour Organisation and take measures against employer protection contracts.
3. Ensure that the official statistics agencies produce statistics on dismissals, new jobs created and legal cases brought by workers which are broken down by industry sector.

Each company in the electronic industry should:

1. Urgently review the practices highlighted in this report and change any conduct which is illegal under Mexican law, for example, abusive use of temporary contracts, illegal union practices, requiring workers to sign a resignation letter when they are hired etc.
2. Take practical positive steps to demonstrate that they respect the human rights of workers in their factories and supply chains, in particular their internationally recognised rights to organise and bargain collectively.¹ For instance, guaranteeing that there will be no retaliations against workers who bring up issues and committing to be open to dialogue with workers who are demanding their rights.
3. Regularly publish accurate data on the proportion of the company's workforce employed permanently, those employed on temporary contracts and via employment agencies.
4. Set out a plan for a reduction in the abusive use of temporary contracts.
5. Ensure that their workers are paid a living wage.

Footnotes

¹ As the UN Special Representative on business and human rights highlighted, the responsibility of all companies to respect these rights is an not optional extra: **"The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work." Principle 12, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, page 13.**

Annex

The following text was provided by the Citizens' Coalition for Electronic Industry ® (EICC ® for its acronym in English).



The Electronic Industry Citizenship Coalition® (EICC®) is a voluntary coalition of companies working together to create a comprehensive set of tools and methods that support credible implementation of the EICC Code of Conduct (“Code”). The EICC appreciates the opportunity to have an ongoing dialogue with CEREAL regarding working conditions in the electronic sector in Mexico. Engaging with local stakeholders such as CEREAL expands our awareness of issues in the electronics sector – especially at the country level – and enables us to ensure the views of all parties are understood; we are committed to continuing this relationship. From the first meeting with CEREAL in September 2005 to the present, we have conducted a number of in-person meetings which have advanced our mutual understanding of the issues, concerns, and improvements occurring over this timespan.

In particular, we recognize that the collaborative efforts between EICC companies and CEREAL have addressed many workers’ issues that would have previously struggled to find resolution. The EICC considers the work of member companies and CEREAL,

in partnership with CANIETI, the Mexican Electronics Telecommunications and Information Technologies Industries Chamber, to be a successful model of open dialogue between industry and civil service organizations. The EICC also appreciates the opportunity for us to illustrate the broad nature of our efforts, many of which have a global span and effect.

EICC Update: 2010 - 2011

2010 and 2011 have been growth years for the EICC with 20 new members joining to leverage and deploy helpful EICC-developed resources in their pursuit of supply chain improvement and compliance. Although these times have been challenging with the plight of the global economy, we did not slow our activities to improve social and environmental conditions throughout the electronic supply chain. In fact, the growth in membership gave us the opportunity to address new and renewed areas of importance to our members, our stakeholders, and the global electronics industry.

Validated Audit Process (VAP)

The launch of the VAP in 2010 marked a milestone in the EICC’s journey to provide members with high quality, industry-leading social responsibility audits. EICC Validated Audits (VA) are conducted by trained and certified, independent, third-party auditors, thus ensuring quality and objectivity in the auditing process. The VA provides an evaluation of a site’s labor, ethics, occupational health and safety, and environmental practices relative to the Code, and identifies site practices that require improvement in order to meet Code standards. In 2010 and

2011 (to date), the EICC has facilitated 250 Validated Audits in 13 countries including Brazil, China, Malaysia, Mexico, Philippines, Taiwan, Thailand, Singapore, and South Korea.

Extractives / Conflict Minerals

The EICC and the Global e-Sustainability Initiative ("GeSI") joined together to create systematic means that members can use in their company efforts to assure that minerals from the conflict regions of the Democratic Republic of Congo ("DRC") do not find their way into the extended supply chain. In September 2010, the EICC and GeSI deployed an on-site audit process for tantalum smelters assessing smelters' facilities and material flow streams, including verification that conflict minerals from the DRC are not passing through those facilities. Audits covering smelters and refiners processing tin, tungsten, and gold are being launched in 2011. A listing of smelters that are compliant with the assessment protocols can be found at www.conflictreesmelter.org. Additionally, in mid-2011, the EICC-GeSI Conflict Minerals Reporting Template was released. The Template enables companies from any industry to collect, consolidate, and report on the geographic sources of conflict minerals in their supply chain and the associated smelters involved in the extended supply chain.

Stakeholder Engagement

Through stakeholder dialogue, we gain an appreciation of different perspectives on the conditions in the electronic supply

chain and on suggestions of how to address them. We expanded stakeholder engagement to include core collaborators in two of our critical projects: the Conflict-Free Smelter Program and the Worker-Management Communication Program. These engagements allowed direct feedback from stakeholders in our work as the stakeholders were part of the team that developed the tools and resources. In a more traditional manner of stakeholder engagement, the EICC hosted a session in Guadalajara, Jalisco, Mexico with stakeholders, including CEREAL, to discuss temporary work and freedom of association. Sixty-five participants from fifteen companies, six nongovernmental organizations, two labor agencies, two Mexico-based industry associations, and the Mexican government engaged in open dialogue that furthered the understanding of many perspectives of the topics. The result was several recommendations that the EICC is reviewing for possible projects and collaboration with in-region organizations.

Communications

The EICC has continued to expand its external communications to keep interested parties informed about the projects and progress we are making toward our goals. To this end we invite you to access our web site at www.eicc.info to view information about our work, especially resources like the weekly newsletter, annual reports (2010 edition due in September-October 2011), and topic-specific reports.

Centro de Reflexión y Acción Laboral (CEREAL)

CEREAL is a project of Fomento Cultural y Educativo A.C. (Cultural and Educational Promotion A.C.), part of the apostolic works of the Mexican Province of the Company of Jesus, which for the last 37 years has been devoted to educating and organising Mexican popular sectors.

CEREAL provides legal assistance, labour rights training and organisational support for workers' groups; it also carries out research on working conditions in different productive sectors in the country and promotes public awareness campaigns with regard to workers' situation.



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