



Beyond voluntary codes and audits: A challenge for the electronic Industry

Seventh report on working conditions in the Mexican Electronics Industry

By the Center for Reflection and
Action on Labour Issues
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It is time for a genuine commitment by the electronic industry to labour rights and environment

The Electronic Industry Citizenship Coalition's (EICC) 10th anniversary was celebrated in 2014. In this context, the EICC announced in its 2013 annual report the approach the coalition will adopt for the following years:

"Today the organization is shifting from purely compliance-driven responsibility to active impact. This evolution is creating a system that incentivizes continuous improvement to help companies advance on the maturity curve. Companies that need help can join and we'll help them improve".¹

In the EICC Code of Conduct, the coalition encourages participants "to go beyond legal compliance, drawing upon internationally recognized standards, in order to advance social and environmental responsibility and business ethics".²

CEREAL is pleased that the EICC has declared that this will be their approach. However, CEREAL continues documenting recurrent and, in some cases, systematic and structural violations to the labour human rights of workers and to the Code of Conduct of the EICC. The most regrettable symbol of such violations is the implementation of an anti-labour union policy, shown by the collective contracts of employer protection that are signed off by inactive labour unions, and by the dismissal of workers who attempt to organize their own independent labour union.

For the past 15 years, CEREAL has engaged in a continuous dialogue with diverse members of the EICC, in order to generate a mechanism that helps to prevent labour rights violations and to provide redress if they occur. Integrating feedback from the western region chapter of the National Chamber of Electronic, Telecommunications and Information Technology Industries (CANIETI), CEREAL and CANIETI implemented a procedure of dialogue and referral of complaints that helped many workers to solve some problems and to improve their quality of life. This dialogue was praised as good practice by leading companies. Last November, CANIETI verbally told CEREAL that they will not continue with this procedure of complaint referral and that they will work with the Mexican Labour Authority to obtain a certification of law compliance.³ This

¹ EICC (2014). *EICC Annual Report 2013*. Available from http://www.eiccoalition.org/media/docs/publications/EICC_2013_Annual_Report.pdf (accessed November 30, 2015).

² EICC (2016). *EICC Code of Conduct (Version 5.1)*. Available from http://www.eiccoalition.org/media/docs/EICCCodeofConduct5_1_English.pdf (accessed February 9, 2016).
EICC (2014). *Código de conducta de Electronic Industry Citizenship Coalition (Version 5 in Spanish)*. Available from http://www.eiccoalition.org/media/docs/EICCCodeofConduct5_Spanish.pdf (accessed February 9, 2016).

³ César Castro Rodríguez, president of the west region of CANIETI, made similar claims to a local diary. El Diario NTR (November 24, 2015). *Denunciarán en Europa condiciones de electrónica*. Available from

declaration was made on behalf of the regional leadership of CANIETI and does not represent the viewpoint of the EICC as an international coalition.

We consider that the corporate social responsibility certifications awarded by governments, as well as the audits of voluntary codes of conduct, have serious limitations. Periodic reports based on interviews with workers offer more reliable and up-to-date information, provided by the actors more involved in the production process. In this report, we highlight the virtual nonexistence of freedom of association in the industry.

It is time for the global electronic industry to make a more decisive commitment to human rights and environmental sustainability and take action to deliver results. This commitment should include adopting and putting into practice ILO's basic labour standards (including the right to form and join a union), as well as similar environmental standards and responsible substance management. It should also include the application of "a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights".⁴ These changes are long overdue.

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http://ftp.ntrguadalajara.com/post.php?id_notas=22415 (accessed February 13, 2016).

On February 24th, 2016, Jalisco's Secretary of Labour and Jalisco's Industrial Chambers Council signed an agreement to award a certification of law compliance to companies. This agreement was not signed by any union –not even by the inactive unions; includes granting a grace period in case of non-compliance; does not mention freedom of association or collective agreements (in fact, the call for registration does not refer to labour rights; a careful choice of words left out the word "right" when they are indirectly referring to a labour right); and the process to be awarded depends basically on a self-assessment questionnaire. From CEREAL's perspective, this seal of compliance is not legitimate. (The official documents about this seal can be accessed here: http://stps.jalisco.gob.mx/content/distintivo-de-buenas-practicas-labourales?sm_search_api_multi_aggregation_1=Secretar%C3%ADa%20de%20Trabajo%20y%20Previsi%C3%B3n%20Social%20OR%20%2AGobierno%2Ade%2AEstado%2Ade%2AJalisco%20%20).

⁴ United Nations (2011). *Guiding Principles on Business and Human Rights* (No. 17) New York and Geneva: UN. Available from http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed February 13, 2016).

Message from the EICC

The EICC is committed to a vision of a global electronics industry that creates sustainable value for workers, the environment and business. Membership in the EICC has grown dramatically over the past 12 years because corporate social responsibility (CSR) is a priority for companies, their consumer and business customers, civil society and governments.

The EICC Code of Conduct is a set of standards on social, environmental and ethical issues in the electronics industry supply chain that helps members achieve this vision. The standards set out in the Code are aligned with, and derived from, international norms and standards including the Universal Declaration of Human Rights, ILO International Labour Standards, OECD Guidelines for Multinational Enterprises, ISO and SA standards, and many more.

The Code is reviewed every three years to ensure its relevance to international norms and issues members may face in their supply chains, and follows an extensive consultation process with members, stakeholders and civil society. In 2015, EICC strengthened several Code provisions on freedom of association and collective bargaining, forced labour, working hours, environmental and other issues.

While EICC members are at different points on the sustainability learning curve, the EICC's goal is to help them continuously improve by providing tools and capacity-building programs. In Mexico we have worked closely with CEREAL to monitor issues and facilitate interaction with members as appropriate.

The EICC will continue to work closely with civil society and governments to support the rights and wellbeing of workers and communities worldwide affected by the global electronics supply chain.

Voluntary codes of conduct and flawed audits

In this chapter, we will present series of issues that we consider relevant and that reflect some of CEREAL's concerns with regard to the EICC members' compliance with the Code of Conduct.

The origins of corporate social responsibility and codes of conduct date back to the 1970s, when the first codes of conduct were developed through tripartite processes. Since the 1990s, the field of corporate social responsibility has been dominated by the emergence of codes established unilaterally by companies.⁵

For a number of years, organizations from many different countries have called for changes in terms of labour and environmental issues from the electronic industry. In 2004, the Catholic Agency for Overseas Development (CAFOD) issued a report about the working conditions in the electronic industry for the first time; CEREAL collaborated in that report. In June that same year, IBM, HP, DELL, Sanmina, Flextronics, Jabil, Celestica, and Solectron founded the EICC, originally under the name "Electronic Industry Code of Conduct".⁶

The EICC's Code of Conduct is voluntary, similar to many that proliferated in the last decade.

The international non-governmental organization Human Rights Watch, in its report "*Without rules. A failed approach to corporate accountability*", demonstrated one of the biggest limitations of this type of codes arguing that:

*"Voluntary initiatives all face the same crucial limitations: they are only as strong as their corporate members choose to make them, and they don't apply to companies that don't want to join."*⁷

Another feature that limits the impact of corporate social responsibility initiatives is that one of its function is to enhance the reputation and strengthen loyalty to the brand. The direct consequence is that companies have learned to adapt their discourse and initiatives to absorb and manipulate public opinion without making any fundamental changes to the way production is organized.⁸

⁵ AFL-CIO (2013). *Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights*. Available from <http://www.aflcio.org/content/download/77061/1902391/CSReport.pdf> (accessed November 12, 2015).

⁶EICC (no date). *The founding members of the EICC saw an opportunity to drive positive change and increase efficiency*. Available from <http://www.eiccoalition.org/about/history/> (accessed October 20, 2015).

⁷ Albin-Lackey, Chris (2013). *Without Rules. A Failed Approach to Corporate Accountability. Human Rights Watch Report 2013 (Events of 2012)*. New York: HRW. Available from https://www.hrw.org/sites/default/files/related_material/business.pdf (accessed November 15, 2015).

⁸AFL-CIO (2013). *Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights*. Available from

In CEREAL's view, if actions for the benefit of workers are not viewed as a corporate obligation, in relation to workers' rights, the changes will be limited and corporate social responsibility represents just a set of philanthropic actions with little impact on the wellbeing of the people that form the basis of companies.

Between June and September, CEREAL, in collaboration with the Instituto Tecnológico y de Estudios Superiores de Occidente (ITESO) –Jesuit University based in Guadalajara – delivered a short course on human rights for the workers of the electronic industry. Many of the people who attended – of whom 75% were women – found out for the first time about the Code of Conduct of the EICC. “I didn't know about the Code of Conduct and I think it is really important to know what it is all about”, commented one female worker at the end of the course.

During one of the sessions of the course, the workers analyze the Code of Conduct of the industry. They compared their experiences of working in the factories with what was stated in the Code, particularly, when we went through the first sections.

At the end of the sessions, we provided evaluation forms (questionnaires) to the attendees and asked them about their experiences with regard to audits. Here are some examples:

“In the last audit at the factory I work for, I realized that I did not have free speech because you have to answer what you are told, because those are the rules of your supervisor and manager”

“When an audit is carried out, the obsolete equipment, or the supplies that don't look fine, are hidden in trailer containers or places the auditors will not look at, and [the supervisors] ask us to answer only the necessary in case they audit our area.”

“I have participated in two audits in the last three years and I've been given instructions to answer only what is asked, [and usually responding with], for example, yes or no. One of the positive things in the working place is that the company has provided us with the necessary safety equipment every worker needs, but the workers are reluctant to use it because they consider the equipment bulky.”

“When an audit of any type is carried out we are asked to answer just the minimum, [because] if we give more details we will encourage the auditor to dig into those details and we will contradict ourselves and then they will rate us low.”

“They plan routes for the auditors and hide everything faulty and deficient in the factory, from the cleanliness of storerooms, hazards, personal equipment, machinery in poor condition and [also] the production is slowed down. They ask us not to say more than necessary because if the auditors rate us low, the production project will go away and we will lose our jobs.”

“I remember one audit when they [the company] set up all the equipment, and

<http://www.aflcio.org/content/download/77061/1902391/CSReport.pdf> (accessed November 12, 2015).

provided us with brand new safety gloves and facemasks, but when it finished they took everything away.”

Electronics Watch (EW), “is an independent monitoring organization that assists public buyers to meet their responsibility to protect the human rights of electronics workers in their global supply chains”, has highlighted “well-documented flaws” of social auditing practices of the electronic industry:

- *Audits may record the conditions of the factory for the day of the visit, but they are unable to capture the day-to-day changes of the factory (for example, a fire door that is unlocked the day the audit is carried out, may be locked the next day).*
- *Failure to document and remediate violations of workers’ rights that are difficult to measure or detect at a glance, such as discrimination or violations of freedom of association.*
- *Conflict of interest — where auditors are paid by the factories they audit, or when companies monitor themselves — resulting in unreliable findings and lack of adequate follow-up.*⁹

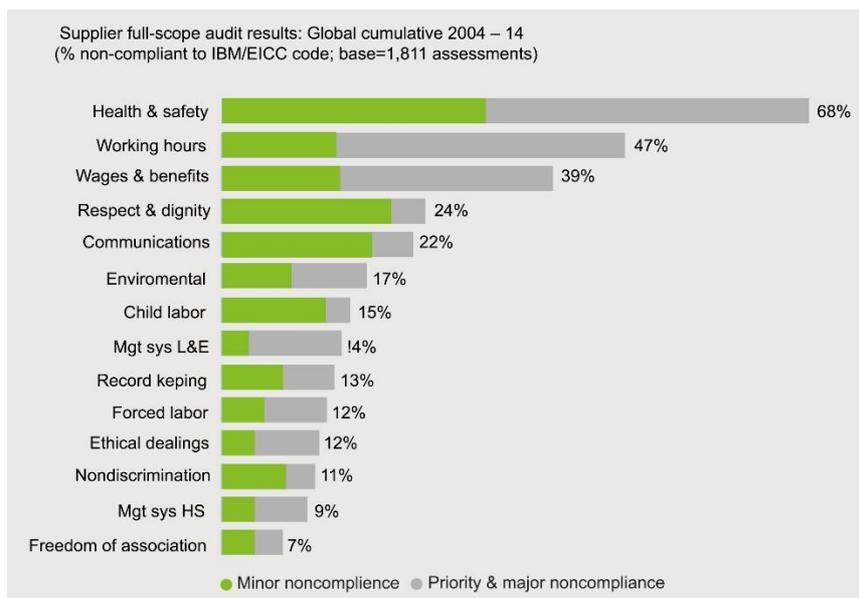
Academic and journalistic articles have extensively documented the failure of traditional audits¹⁰.

For many years CEREAL has documented similar testimonies, but our results seemed to differ from what the electronic industry reported. In the case of IBM in its 2014 corporate social responsibility report, in the section *Supplier assessment and improvement plans*, available in its webpage,¹¹ we can see an example:

⁹ Electronics Watch (no date). *Electronics Watch Questions & Answers*. Available from http://electronicswatch.org/q-a_public_buyers_1871448.pdf (accessed December 10, 2015).

¹⁰ AFL-CIO, 2013 *op.cit.*; Esbenshade, Jill, “A Review of Private Regulation: Codes and Monitoring in the Apparel Industry”, *Sociology Compass*, Volume 6, Issue 7, pp. 541–556, July 2012, <http://onlinelibrary.wiley.com/doi/10.1111/j.1751-9020.2012.00473.x/abstract>; T. A. Frank, “Confessions of a Sweatshop Inspector” en *Washington Monthly*, April 2008, <http://www.cfr.org/trade/washington-monthly-confessions-sweatshop-inspector/p16254>; quoted by *Electronics Watch, Combining the strength of public sector buyers to ensure respect for the rights of electronics workers in contractor supply chains*, United Kingdom, Electronics Watch, 2015, p.6

¹¹ IBM (no date). *Supplier assessment and improvement plans. 2014 Corporate Responsibility Report*. Available from <http://www.ibm.com/ibm/responsibility/2014/supply-chain/supplier-assessment-and-improvement-plans.html> (accessed December 10, 2015).



Graphic 1 Source IBM. <http://www.ibm.com/ibm/responsibility/2014/supply-chain/supplier-assessment-and-improvement-plans.html>

The chart above shows noncompliances with the EICC Code of Conduct that IBM has identified in ten years of audits, broken down by topic from the highest percentage of noncompliance (health and safety) to the lowest (freedom of association). Only 7% noncompliances with IBM/EICC Code found by audits were related to the right of freedom of association. China and Mexico were among the countries where more audits were performed.

The lack of freedom of association in China¹² and Mexico is widely known.

The Mexican government has recently announced that it will put in practice the necessary mechanism to ratify the ILO Convention 98 about freedom of association and collective bargaining. In this document, the Mexican government recognizes that “protection contracts” (collective bargaining agreements signed between companies and non-representative labour unions, often without workers’ knowledge) “are not recognized, nor are these allowed in the Mexican labour legal framework”.¹³

With regard to the same issue, during the 104th Session of the International Labour Conference, celebrated in June 2015, the government of the United States declared:

“The persistence of false trade unions, or ‘protection unions’, remained a major

¹² Freedom House (no date). China. *Freedom of Association Under Threat: The New Authoritarians' Offensive Against Civil Society*. Available from <https://freedomhouse.org/report/freedom-association-under-threat-new-authoritarians-offensive-against-civil-society/china> (accessed December 10, 2015). AFL-CIO (no date). *Labour Rights in China*. Available from <http://www.aflcio.org/Issues/Trade/China/Labour-Rights-in-China> (accessed December 10, 2015).

¹³ STPS (March 9, 2015). *México: Carta de la Secretaría del Trabajo y Previsión Social a la Confederación Sindical Internacional (CSI)*. Available from <http://www.ituc-csi.org/mexico-carta-de-la-secretaria-del?lang=es> (accessed December 10, 2015).

challenge and constituted a serious limitation of the right to freedom of association, particularly as collective agreements were concluded with these protection unions without the knowledge and consent of workers, often even before enterprises had opened..”¹⁴

How is it possible that IBM’s audits had identified just 7% of cases of noncompliance with freedom of association, and half of them were considered minor noncompliance?

To understand such divergence, we interviewed an auditor of working conditions and ethics of the Code of Conduct. She has many years of experience and has worked for some companies of the electronic industry in the western region of Mexico. In her words, an audit consists of:

“validating that everything complies with the guidelines. In this case, we refer to audits that aim to align companies with the Code of Conduct of the electronic industry. This type of audits is called Validated Audit Process (VAP). The aim is that supply chain of the electronic industry complies with the guidelines of the Code of Conduct of the EICC V 5.0, which is the current version. (...) The Code of Conduct audit consists of five areas, each with subsections and provisions, as we call them, and each one requires specific evidence. But usually, what we ask is that the company meets with three requirements in order to be considered as compliant with the Code, to mark it as “green”, to approve it. The first is the validation or documentary evidence; the second is the process or approved procedure and audited by the management department, and closing with the interviews. The interviews are conducted with (assembly) workers or collaborators and with managers or supervisors, as it is specified in each subsection area. That is, it is not necessarily with both of them; there are provisions that require interviews only with (assembly) workers, and not necessarily with managers or supervisors, for example, the provisions of wages and benefits, working hours, or training.”

During the auditing process, said the auditor, it is important to conduct the interviews in a reliable way, using diverse methods that assure the trustworthiness of the sample. During the interview with the auditor, CEREAL expressed its concern with regard to the findings coming from the evaluations carried out during our short course about the Code of Conduct. Her response seemed to validate what was described by the workers who participated in our course:

“That happens at any type of audit. If you have been in a quality audit, (you can see that) what companies are invariably looking for is to pass the audit. It is something as an auditor I always see. Immediately I see when people are afraid of speaking, when they feel pressured not to speak, it is something I have seen in some people. They are told ‘not to say more than necessary because you’ll invite the auditor to ask more questions’. That’s why I always begin saying ‘we are here because your

¹⁴ ILO (2015). Part II: Report of the Committee on the Application of Standards. Individual cases: Mexico. In *International Labour Conference. 104th Session, Geneva, 2015. Conference Committee on the Application of Standards. Extracts from the Record of Proceedings* (p. 14 PartII/74). Available from http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_412826.pdf (accessed April 19, 2015).

company has hired us to identify areas of opportunity, to find ways to facilitate (your work) and provide better benefits for you (...) we facilitate the processes to improve the situation (here in the factory)'. And then, it is up to the worker to answer, because they are not obliged to."

"In every company you have to randomly carry out a certain number of interviews, equivalent to the square root of the total of collaborators (...). For example, assuming you have a sample of ten individuals, you report that you contacted those ten individuals and whether they wanted or not to answer (all your questions). That is, it doesn't have to be ten answered interviews, but ten attempted interviews."

When we introduced the topic of freedom of association, she commented:

"Freedom of association is an issue that varies from country to country. With regard to the specific case of Mexico, the figure of the labour union is a legal requirement (sic) that companies have to comply with, despite that Mexican labour unions do not meet the expectations as in other countries, for example, in Europe. One would expect that labour unions were the voice of workers, that the unions protect and support them, but in the case of the [Mexican] electronic industry that is not the case, although it is a legal requirement. That is why the companies of the [Mexican] electronic industry, advised by lawyers, are recommended to meet this requirement by paying and affiliating to any labour union. Then, invariably you'll find that the companies comply with the requirement of affiliation to a labour union, and that companies pay their fees, annually or monthly, to the labour union. But the affiliation is to ghost labour unions because in practice there is no relation between the union and the workers of the company. There is no such thing as a union representative that is looking after the workers' rights. Those ghost unions are not fulfilling the actual role of a labour union. Then, how does a company meet the legal requirement of freedom of association? There are many ways. One is to organize focus groups or working groups (...) They [companies and/or protection unions] often ask 'why do we report to them? [workers]' Then, you are in a dead end, and they say: 'We can't do anything else because the union neither helps us, nor it brings any benefit. They just come, cash their part and we do it because we are required by law'. But in order to comply with the human right of freedom of association, they help them (workers) to get together, to organize mix commissions of security, football or bowling teams, organize events (...)."

With regard to freedom of association and collective bargaining, the ILO says:

"By freedom of association and the right to form a labour union, which are fundamental principles of the ILO, we understand the right of workers and employers to form and join organizations of their own choosing that promote and defend their occupational interests (...). Collective bargaining is a voluntary process through which employers (or their organizations) and labour unions (or the workers' representative, in the absence of a labour union), discuss and negotiate working conditions, like wages and other issues, as well as their relationship in the working place. The goal of collective bargaining is reaching acceptable agreements for both

parts (...). Freedom of association and collective bargaining are fundamental human rights in the working place, consecrated in the ILO Constitution since 1909.”¹⁵

Last year we conducted a survey among workers from different factories of the electronic industry. We collected a random sample of 120 interviews at IBM and 100% of the workers who participated said that they did not know the name of the labour union who signed off the collective contract with the company. None of them said to have attended any meeting with the labour union, and neither to be aware of the agreements between the union and the company.

The policy of “open doors”, reading and sports clubs, team meetings, etc., are not a substitute for the true exercise of the right to freedom of associations. These initiatives do not replace the workers’ organization and neither the formation of representative organizations, such as labour unions and coalitions. Such initiatives don’t allow the workers to actually demand the company to respect their rights, because they will always be in an inferior position and totally vulnerable to the possible abuse from the company. Although these contracts are not public and we have not got full access to them, it is clear that the collective contracts that these companies sign with protection unions turn out to be a grave violation of workers’ rights.

According to information from the Secretariat of Labour and Social Welfare (STPS), IBM¹⁶ has signed a contract with the President Adolfo López Mateos Labour Union for Workers of Commerce and Private Schools, whose secretary is Roberto Mendoza León.¹⁷

According to the report *Evaluation of collective contracts in Distrito Federal*, coordinated by José Alfonso Bouzas, and supported by the Friedrich Ebert Foundation,¹⁸ this labour union has signed 290 collective contracts just in Distrito Federal, but it has also signed other contracts with companies in the whole country.

CEREAL has highlighted that, according to the Mexican labour law, the union leader has to work in the company and has to be elected in an assembly by the majority of his co-workers.¹⁹

The evidence seems to demonstrate that this is not the case. All workers who participated in our survey, some of them with more than five years’ experience in the company, claimed that they had never been in any assembly or had heard the name of the current leader of the labour union

¹⁵ ILO (no date). Preguntas y respuestas. La libertad sindical y de asociación y la negociación colectiva. Available from http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_14_es.pdf (accessed November 22, 2015).

¹⁶ IBM Servicios Profesionales, S.A. DE C.V. IBM de México Comercialización y Servicios, S.A DE C.V

¹⁷ Junta Local de Conciliación y Arbitraje, STPS (2015). *Relación de Contratos Colectivos e Industrias Familiares capturados. Año 2015 (database)*. Available from <http://stps.jalisco.gob.mx/justicia-laboral/contratos-colectivos> (accessed February 4, 2016).

¹⁸ Bouzas Ortiz, José Alfonso, Reyes Ramos, Luis Oliver, and Vega Huerta, Mario (2009). *Evaluación de la Contratación Colectiva en el Distrito Federal*. Mexico: Fundación Friedrich Ebert. Available from http://ru.iiec.unam.mx/1196/1/Libro_Evaluacion_Contratacion_Colectiva_en_el_DF_2009.pdf (accessed November 13, 2015).

¹⁹ STPS (2012). Art. 364. *Mexican Labour Law*. Available from http://www.stps.gob.mx/bp/secciones/junta_federal/secciones/consultas/ley_federal.html (accessed February 13, 2015).

of IBM.

How is it possible that the leader of this union had worked and been elected in assembly by his co-workers in more than 290 companies only in Mexico City? Evidently that is impossible. With regard to this issue, the report *Evaluation of collective contracts in Distrito Federal* says:

“A collective contract of employer protection (CCEP) is characterized in that the employer, allied with the government, chooses a labour union as if it were a commercial transaction between a buyer and a seller. The collective contract is provided by the union, as if the union were any service provider. In other words, the company selects the service provider, that is, the labour union, even before the existence of any labour relationship between the company and the workers. After the fact, the workers will know their union and they have to accept and comply with what has been established in the negotiation, but without having been part of it.

A CCEP is a simulation of legitimate collective agreements that has the following goals:

- *Protect the employer against the possibility that workers set up an authentic organization; in this context, the workers’ right to negotiate their working conditions has been severed.*
- *Prevent the intervention of workers in the collective bargaining of their working conditions. That is, there is no negotiation between the two parts.*²⁰

For the reasons discussed in this chapter, CEREAL continues to call on the EICC to require its affiliates to go beyond legal compliance and make sure that the workers’ rights, particularly the right of freedom of association and collective bargaining, are respected and to generate the appropriate conditions for the workers to exercise their rights in an environment free of harassment and reprisals.

We sent this case to IBM and in their response, dated February 9, 2016, the company said:

“IBM recognizes the importance of workers being able to set up or join the labour union of their choice and be able to participate in the process of collective bargaining with the employer. We understand the concern about the so-called ‘protection contracts’, a practice used by some companies to undermine the labour rights and discriminate workers who seek to be represented by a labour union of their choice. Having said that, we guarantee that IBM complies with the EICC’s Code of Conduct with regard to freedom of association.

“According to the Mexican Labour Law, labour unions can obstruct the right of workers to join a labour union of their choice. It also says that, without any evidence

²⁰ Bouzas Ortiz, José Alfonso, Reyes Ramos, Luis Oliver, and Vega Huerta, Mario (2009). *Evaluación de la Contratación Colectiva en el Distrito Federal*. Mexico: Fundación Friedrich Ebert. Available from http://ru.iiec.unam.mx/1196/1/Libro_Evaluacion_Contratacion_Collectiva_en_el_DF_2009.pdf (accessed November 13, 2015).

that it represents the interests of workers, a labour union can go on strike without balloting the workers or taking them into account in any type of collective bargaining. To prevent this type of actions, employers can sign collective bargaining agreements with labour unions that could better represent, in a fairer way, the interests of employees. These agreements are not exclusive and the employees are able to identify and choose a labour union which they think would better represent their interests.

“In practice, IBM has not prevented the workers to organize. In fact, the company has not received any complaint with regard to this issue. IBM signed a collective bargaining agreement with a recognized labour union, which applies to all our employees in Guadalajara since the last quarter of 2015. In 2016, we aim to continue the communication with our employees with regard to the collective bargaining agreement”.

In the extended response to our report, IBM specifies:

*“Despite coercive and abusive tactics by some labour unions, prohibited by labour law, sometimes employers signed collective bargaining agreements with labour unions **they believe** can more fairly represent the workers’ interests. These agreements are not exclusive, and workers are allowed by the Mexican Constitution and labour law to choose a labour union they consider appropriately represent their interests and that the company recognizes the selected labour union as their representative in the collective bargaining agreement.”²¹*

*“(…) IBM has negotiated a collective bargaining agreement with a labour union, which applies to all the employees of IBM Guadalajara. This collective bargaining agreement (...) has been valid and enforceable since the last quarter of 2015. It allows the representation of **it allows the representation of workers to occur in such a way that prevents abuses** to the Mexican Labour Law by a **hostile labour union** – not selected by the employees – that can extort the company and the employees themselves.”²²*

It is important to notice that IBM recognizes that some companies, not the workers, “signed collective bargaining agreements with labour unions **they believe** can more fairly represent the workers’ interests”. In other words, IBM recognizes that sometimes companies decide who should represent their employees.

As we have shown, IBM has signed a collective bargaining contract with the Sindicato Nacional Presidente Adolfo López Mateos de Trabajadores y Empleados del Comercio en General y Escuelas Particulares, but none of the IBM workers who participated in our survey knew about this labour union. How was it possible that this labour union gained the workers’ representation

²¹ Our emphasis.

²² Our emphasis.

in this contract?

The next chapter will discuss the situation of workers from Lexmark and Foxconn. Both of these companies are members of the EICC but they have taken actions against workers who have sought to create an independent and representative organization.

Freedom of Association: a dream that may become a reality in Ciudad Juarez

Ciudad Juarez has experienced steady economic growth in recent months. The Governor of the State of Chihuahua and the Mayor of the City have been touring around aiming to bring foreign investors to the region. Such investments will be particularly directed to the mining industry²³. Since the Mexican Army left the streets of Ciudad Juarez, the city has new energy and rates of violence have decreased. This has allowed the city to get back to its normal pace of production.²⁴

The Governor also appeared in some advertising, describing how companies were now looking for labour and recruiting new workers, stating that this was achieved thanks to his administration.²⁵.

Below is a quote from the Governor, taken from an interview at the beginning of 2015:

“2015 is a very good year for the State of Chihuahua. Growth expectations are high and very important. The impact of the US economy is going to push us forward and we are ready to move along.”²⁶

It seems that he was right. Production and investments increased, which is evident in any of the streets of the city. On fences, doors and surrounding walls of maquiladoras we get to see recruitment posters announcing they are looking for workers.

According to a report published by the University of Texas at El Paso,²⁷ a large number of employees, who work for the maquiladora industry at Ciudad Juarez, work specifically for exporting companies. This city is ranked first based on the number of employees who work at

²³ La Jornada en línea (2015 March 31). *Inversión extranjera directa en Chihuahua*. Available from <http://www.jornada.unam.mx/2015/03/31/politica/013n1pol> (accessed December 10, 2015).

El Diario.mx (2015). *Recibirá Chihuahua inversión de 500 millones de euros: Duarte*. Available from http://diario.mx/Estado/2015-03-09_154119dc/recibira-chihuahua-inversion-de-500-millones-de-euros-duarte/ (accessed December 23, 2015).

²⁴ Rivas, Carlos Coria (2012, July 23). *César Duarte celebra reducción de violencia en Chihuahua*. Available from <http://www.imagen.com.mx/cesar-duarte-celebra-reduccion-de-violencia-en-chihuahua> (accessed December 12, 2015).

²⁵ The Government of the State of Chihuahua (2015). *Post informe – Economía* (video online, Government of Chihuahua YouTube channel). Available from <https://www.youtube.com/watch?v=2kXopdmsHoY> (accessed December 1st, 2015).

²⁶ El Constituyente (2015, January 09). *César Duarte dio a conocer que en este 2015, el panorama para Chihuahua es bueno debido a que se tienen buenas expectativas de crecimiento*. Available from <http://www.ecosistemapolitico.com/cesar-duarte-pronostica-buen-panorama-economico-para-chihuahua/> (accessed December 12, 2015).

²⁷ Hunt Institute for Global Competitiveness (2015). *Reporte de indicadores económicos de Paso del Norte. Primer trimestre 2015*. University of Texas at El Paso. Available from <http://huntinstitute.utep.edu/wp-content/uploads/2014/04/reporte.pdf> (accessed December 10, 2015).

assembly-for-export plants. It is only second to Tijuana in terms of number of companies that assemble to export from Mexico.

To get an idea of the industry's impact, just 10 of these companies provide jobs to 75 000 people in Ciudad Juarez. This represents a third of the workers of all these assemble-for-export companies in the city.²⁸

Main maquiladoras in Ciudad Juarez, by number of employees. February 2015

Companies name	Number of employees	Industry
1 Lear	24,000	Automotive
2 Delphi	12,000	Automotive
3 Foxconn	11,600	Electronics
4 Wistron	6,200	electronics
5 Electrolux	4,900	Electronics
6 Johnson & Johnson	4,500	Medical devices
7 3M Edumex	3,300	Industrial, Medical devices
8 Bosch	3,100	Automotive
9 Coclisa	2,895	Automotive
10 Continental	2,500	Automotive

Table 1 Source: Hunt Institute for Global Competitiveness
<http://huntinstitute.utep.edu/wp-content/uploads/2014/04/reporte.pdf>

According to the study, drawing on data from December 2014, we now know that employees of these Juarez-based assembling companies earned among the lowest wages in all Mexico, including the border area. By contrast, the companies' managers and directors were among the best paid in all Mexico.

Last October 2015, during our visit to Ciudad Juarez, the workers we interviewed confirmed this is an ongoing trend. Workers are paid around US\$ 200 to 300²⁹ a month; this is not even enough to afford the basic food basket, which this year increased in price by 24% in Mexico's border region.³⁰

Another factor to consider is that a great number of assembly workers employed by maquiladoras are migrants themselves. In 2015, nearly twenty thousand migrants, from various Mexican states, arrived in Juarez in search for job opportunities and better living conditions.³¹

²⁸ Hunt Institute for Global Competitiveness (2015). *Reporte de indicadores económicos de Paso del Norte. Primer trimestre 2015*. University of Texas at El Paso. Available from <http://huntinstitute.utep.edu/wp-content/uploads/2014/04/reporte.pdf> (accessed December 10, 2015).

²⁹ Unless indicated otherwise, the currency exchange rate used in this Report is 17.50 pesos to a US dollar.

³⁰ Olea Galindo, Joel (2015). *Aumentó 24% la canasta básica*. La Tribuna de San Luis. Available from <http://www.oem.com.mx/tribunadesanluis/notas/n3798246.htm> (accessed December 15, 2015).

³¹ Figueroa, Martha Elba (2015, May 07). *Juárez recibió 10 mil deportados y 20 mil migrantes del sur: Serrano*. El Diario.mx. Available from http://diario.mx/Local/2015-02-19_c9a031da/juarez-recibio-10-mil-deportados-y-20-mil-migrantes-del-sur-serrano/ (accessed October 30, 2015).

This issue, coupled with the poverty in which they live, makes them more vulnerable. Migrants who are women face a much worse situation. As in other regions of the country, most production workers are women with children, the population group most exposed to abuse and exploitation when factors combine.

As we have documented on previous reports, we continue to observe the tendency to reduce wages and reduce access to labour rights. The same trend can be seen at Juarez maquiladoras, in addition to large distances between workplaces and the housing areas the workers live.

Being overloaded with work and spending too much time on transportation, the workers have very little time left to enjoy life and family, with the consequent emotional distress.

Workers seem to be helpless in relation to the power of employers and business owners. They are ignored and neglected by government institutions who are indifferent to the situation of workers and suffering from their own inefficiencies. All this could perpetuate the problems that electronics workers face and even worsen their labour situation.

However, several workers' movements have emerged despite the current issues in this terrible labour context. Workers have decided to organize and demand better labour conditions. Their demands centre on a specific ask—their right to freedom of association and collective bargaining.

The document called *Derecho sindical* de la OIT³² (ILO's Freedom of Association) reads as follows:

“Without freedom of association, or better said, when workers' organizations are not independent, autonomous, and representative, and when they are not endowed with rights and guarantees necessary for the promotion and defense of affiliates and their rights (...) the real possibilities to attain greater social justice are severely undermined.”

It is important to note that the ultimate goal of labour unions is to contribute to social justice. This is truly significant for a city like Juarez that still aches from the scars of violence. As this document states, *“permanent universal peace can only be based on social justice”*. Therefore, protesting workers aim to improve their health and safety conditions, as well as their salaries. They also want companies and authorities to take their own responsibilities so then, altogether, they can build a permanent, universal peace for our country.

Here we include several cases that provide examples of how unhappy workers are and how they struggle to make sure that their rights are recognized and respected.

³² Otero, Alberto and Guido, Horacio (1995). *Derecho sindical de la OIT. Normas y procedimientos*. Geneva: ILO. Available from http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_087999.pdf (accessed September 2015).

Lexmark

In the section about human rights in Lexmark's 2014 Report³³, we find information about the company's corporate social responsibility policy. It reads:

"Lexmark's commitment to human rights is outlined in our Global Human Rights Policy and in the Lexmark Code of Business Conduct. These policies address nondiscrimination, workplace safety, child labour, forced labour and human trafficking, working hours and minimum ages, and freedom of association and collective bargaining."

Further on it states:

"We have never been involved in any human rights controversies nor cited for any human rights violations."

Lexmark has been operating in Ciudad Juarez since 1996. In this plant, they produce and recycle printer ink cartridges.

Wages have not increased since 2008. A couple of months ago, workers were informed there would be a readjustment and salary increase. Their wage went up to 105.00 pesos, 7 pesos more than the salary which they have had since 2008. This caused some workers to quit their jobs because they got really upset and left to find better job opportunities, with better wages and more benefits. Employees have told us that they thought salaries would increase to 125.00 or 130.0 pesos, to match those offered by other manufacturing plants within the electronic sector.

Another issue within that restructuring of the company which upset workers, was the fact that on the same date that they would get their salary increase, workers would have to be re-certified to prove they deserved the increase mentioned above. This meant that experienced workers would be graded the same as newly hires; seniority³⁴ was left out of the question. According to workers, the highest level they could aspire to is Level C so this would mean that they would make 120.00 pesos on a daily basis.

To reach Level C, workers need to complete several years at the Company and comply with the corresponding certifications.

Juan³⁵, Lexmark's employee states:

"You become a Level C worker only if you pass several tests. You also need to go to the infirmary and undergo the medical tests, and if you suffer from varicose veins,

³³ Lexmark (2014). *We Strive for a Better World. Corporate Social Responsibility Report 2014*. Available from <http://csr.lexmark.com/pdfs/Lexmark%202014%20CSR-HiRez-FINAL-rev8.26.15.pdf> (accessed November 22, 2015).

³⁴ Several benefits and rights provided by the Mexican labour law depend upon the number of years (seniority) that someone has work for his/her employer.

³⁵ People's names have been changed in order to preserve confidentiality.

or have had a C-section, or if you have tattoos, or else, you won't achieve Level C. That is hard, particularly for those who have been at the Company for many years."

It is a fact that, in the past few years, the cost of life in the city has increased and the basic food basket has become much more expensive. Workers feel upset and dissatisfied because their wages have not increased accordingly. Some of them have been forced to find a second job to double their income. They mention that they need to work at other manufacturing plants or clean other people's homes. Those who have two jobs at different maquiladora plants, we found they have no rest days. Manuel said *"I work from Monday through Friday at Lexmark and, on weekends, I work for a different maquiladora company. What I make is barely enough."*

This affects family life significantly. Workers think their labour conditions are a cause of Juarez's ongoing problems. *"This is something our employers do not get to see—adds Juan—but they really need to take this into consideration, for this provokes violence around us (...). Working so many hours is wearing us out. We cannot even fulfill our labour responsibilities. We are totally burnt out."*

Holidays are another factor workers include in their demands. On a yearly basis, manufacturing stops for the holidays, usually for two weeks in December. Workers are forced to "exchange" free days for those days they will not work in December. Such action is a double breach of Mexican legislation. Mexican Labour Law, Article 73, provides the following:

"Workers will not be obliged to work on rest days. If such provision is breached, employers are forced to pay a double wage for that working day; they will also pay the corresponding workday as a free day."

In this specific case, workers are not only forced to work through their holidays—they are not paid according to the Law. Mario comments: *"If I have twelve free days to take, why is it that I cannot take those as vacations in December, so I can spend the Holidays with my family? Or else, if I work, why am I not being paid accordingly? That is set by law. In December we are paid for that day we exchanged earlier, but that day is paid as a normal day, not double wage as it should."*

Often, adjustments of this kind can also damage workers' health. This is what happened to Manuel:

"Last year we had a terrible experience—even cruel, I would say. It made me suffer from hypotension. Last year we worked five weeks in a row, weekends included, nonstop, so we could then exchange these days and get our December holidays. We were also working overtime. People got so burnt out they did not want to stay, simply because they could not stand it anymore. It was physically impossible to continue to work."

According to workers' testimony, occasionally—when inventories or repairs are made, or when demand goes down—they are forced to take free days as if these were holidays or vacation. This action also goes against the Federal Labour Law (Article 76). To some workers this is a very specific problem, because they are originally from other states and, if they want to get back home to their families, they need several days in a row. It would take them at least three days to travel

there and back. Marina, originally from Chiapas, declares “*we truly devote to work so we can get consecutive days to travel back home, but at this company, we are normally told that there’s lots of work so we cannot have holidays. Even when it is your legal time to take a holiday, the company won’t let you go.*”

Such a breach of labour rights has encouraged workers of Lexmark Ciudad Juarez manufacturing plant to organize together to improve their working conditions. When protests started, according with the testimony of one of the workers, the company launched an intimidation campaign to discredit and dissolve this workers’ organization³⁶. Far from showing openness to dialogue and respect for the right of freedom of association, the company retaliated by not offering overtime to protestors. They were also changed from their positions in order to prevent them from speaking to other workers and encouraging them to join the movement. Some others have been dismissed based on the excuse that they have breached the Company’s Code of Conduct. All these actions totally breach ILO’s 98 Convention, and ILO’s Declaration on Fundamental Principles and Rights at Work.

But, thanks to the efforts of workers who took action, the movement has grown substantially. Last December they organized to make the company listen and address their requests. On December 8th, more than 700 workers stopped every production line within the plant, to demonstrate that they want their labour rights to be fulfilled. Later that day, the company evacuated the plant to prevent the stoppage³⁷.

According to workers’ testimony, during these stoppages the company requested the presence of the Juarez Department Police and the Attorney General’s Office to try to intimidate workers and force them to get back to work. At one point the police tried to bring demonstrators out of the plant by force, but workers took care of each other so nobody would be detained. It is noteworthy that actions taken by workers were carried out legally in the exercise of their rights as citizens.

Immediately after actions were taken, the company dismissed workers *en masse*. On December 9th, 2015, they dismissed the largest amount of workers in a single day when 90 workers were dismissed. But these 90 workers started night vigils as a way to get their way back into the company. Laid-off workers, along with people currently employed by Lexmark meet together on a weekly basis. Ciudad Juarez citizens, who back them up, join these gatherings outside the plant as well. They light candles and carry posters and banners.

At the same time Susana Prieto, the workers’ lawyer, has been threatened and disqualified by the governor of the state of Chihuahua.³⁸ According to the lawyer, threats were so frequent and

³⁶ A member of CEREAL interviewed the worker. More references on the media: Rodríguez Nieto, Sandra (2015, December 14), “Lexmark retiene aguinaldo a los empleados que le pidieron un ajuste salarial de 6 pesos” en *Sinembargo.com.mx*, disponible en

<http://www.sinembargo.mx/14-12-2015/1577156>

³⁷ Villalpando, Ruben (2015, December 09) , “Paro en maquiladora de Lexmark en Juárez” en *La Jornada en Línea*, disponible en <http://www.jornada.unam.mx/2015/12/09/estados/038n1est>

³⁸ Netnoticias.mx (2015, December 23). *Actuará Duarte ante quienes promueven conflictos laborales*. Available from <http://netnoticias.mx/2015-12-23-522a98d5/actuara-duarte-ante-quienes-promueven-conflictos-laborales> (Accessed January 9, 2016) See “Bonos en la maquiladora” in Televisa Ciudad Juárez Oficial, 2 de Octubre 2015, available from <https://www.youtube.com/watch?v=vlc42byuqu0>

intense that on December 15, 2015, she decided to go to the Office of the State Commission on Human Rights, at Ciudad Juarez, so she could file her complaint and request the necessary precautionary measures³⁹.

On 29th December 2015, labour authorities informed workers that Lexmark would not allow the registration of a new union. According to authorities' explanation, the workers' request contained errors. For example, the union's name was misspelled, and it lacked a section that would explain how the union's funds would be managed. The workers and their lawyer decided to file an "amparo" (protective measure) against the decision made by these labour authorities for they consider this an abuse of their rights. They announced they will keep their encampment outside the plant for an indefinite time.

Workers remained in their encampment outside Lexmark's plant until the end of March, 2016, enduring the region's extreme weather.

CEREAL sent a letter to the EICC, in an attempt to contact Lexmark, and also sent a copy of the letter to a company's representative. Additionally, on March 23, 2016, more than 30 organizations from the United State, Europe, and Mexico, among them GoodElectronics Network, whose members are based in Europe, Asia, and the Americas, sent a letter to Lexmark demanding that the company respect the rights of workers.

At the time of finalising this report, Lexmark had not made any statement about the issue. By the beginning of April, Lexmark and the workers reached an agreement that put an end to the legal dispute.

Foxconn⁴⁰

In 2005, Scientific Atlanta, Inc., company founded in 1951 in Atlanta, Georgia, was purchased by Cisco Systems, networking services provided, for US \$6.9 billion⁴¹. In October 2011, Taiwan-based Foxconn Technology Group, the largest global electronic devices manufacturer, purchased Scientific Atlanta's set-top-box facilities in Mexico, for US\$44.9 million from Cisco Systems Inc.⁴² According to workers' testimony, soon after Foxconn bought Cisco's plant, labour conditions worsened.

Currently, Foxconn-Scientific Atlanta supplies Technicolor, Brocade, and Cisco. Foxconn, Cisco, and Technicolor have signed the Electronic Industry Citizenship Coalition's Code of Conduct

³⁹ Interview with Lawyer Susana Prieto conducted by CEREAL. December 15, 2015.

⁴⁰ In 2010, Foxconn became internationally infamous due to the case that involved 18 workers who decided to take their own lives by jumping off from several buildings. Six years ago, CEREAL documented an incident that occurred at Foxconn manufacturing plant based in Ciudad Juarez.

⁴¹ Ghiring Nancy, (2005, November 18) "Cisco buys Scientific-Atlanta for \$6.9 billion" in Networkworld.com, november 18th 2005 Available from <http://www.networkworld.com/article/2316003/lan-wan/cisco-buys-scientific-atlanta-for--6-9-billion.html>

⁴² Ye-Fen, Lin and Hanna Liu (2011, October, 11), "Foxconn pays US \$44.949 million to buy set-top-box facilities", Focus Taiwan, <http://focustaiwan.tw/newn/aeco/201110110051.aspx> (accessed on July 6, 2016).

(EICC).

Foxconn's 2014 Corporate Social Responsibility Report, on the section related to wages and benefits, states:

“Foxconn signs a collective bargaining agreement with the Labour Union every year to ensure that employee rights are protected.”

Notwithstanding how clear this statement sounds, this does not seem to be the case at Ciudad Juarez. None of the workers CEREAL interviewed knew the name of Foxconn's union leader who supposedly signed the collective agreement. There are people who have worked here for more than seven years and have never attended a general assembly meeting, gathering, or other union event. Most take for granted unions are nonexistent – for most practical purposes they are.

Workers' demands are similar to those of other movements that have emerged throughout the region. Workers specifically point to a deterioration in the services of the infirmary and cafeteria, poor working environment, discrimination, lack of chairs, the decline of several employment benefits, sexual harassment, and low wages. Overtime is imposed on them on a frequent basis; there is no rule to assign holidays, plus the fact that the results of the tests for lead levels in the blood that the company runs periodically are not sent to the workers themselves⁴³.

Workers complain in particular about the restructuring of the company which has been imposed. New hires have a starting wage of 90.00 pesos daily, however workers with more seniority (12-15 years), and more experience, are only getting 94.00 pesos daily. Due to system evaluations, wages are normally increased from 0.00 to 3.00 pesos (daily) each year. Discontented workers are getting organized, mostly with the aim of remedying the issues mentioned above.

Workers started to get together and associate by August 2015. They have protested several times at the gates of the plant. The first of these protests led to more than 100 workers being dismissed. Besides, workers have talked to mass media and have filed legal suits at the Local Labour Arbitration and Conciliation Board to demand they are paid severance or they are given their jobs back.

On October 14 2015, one of the members of this movement, Engineer Carlos Octavio Serrano, started a hunger strike as a way to protest against the lack of answers from the Company to workers' demands. Serrano had worked for the Company for more than 14 years. Foxconn reacted to Serrano's protest by filing three legal processes against him: a civil case based on damages to property, a labour case, for having organized the movement based on the fact that he was a staff member, not a blue-collar worker, and a criminal case, for having made a protest by the facility gates.

While on hunger strike, according to his testimony, Serrano was mocked and harassed by Human Resources staff. He even got physically hurt. All this has caused severe emotional damage to

⁴³ Workers of these companies (Lexmark, Foxconn and Commscope) have stated these concerns in the interviews conducted by CEREAL in Juarez.

him.

On October 28 2015, after Serrano did not accept taking the \$50,000.00 pesos the company had offered for his resignation, and for dropping the charges, he was dismissed with no severance⁴⁴.

Carlos Serrano describes what happened:

“They wanted me to sign a formal administrative letter⁴⁵. Obviously, I did not sign it. I really do not know many of the legal terms it contained so I asked if I could get a lawyer to advise me on this matter, someone who could tell me if it was right or not to sign it. They did not agree and then asked me to turn in my ID card back, and my lab coat. That’s how I was no longer a Foxconn employee.”

After the demonstrations, Foxconn sent an internal letter to employees⁴⁶. In the document, the company said that it was fully committed to its employees and to its customers’ satisfaction. They also tried to play down the labour movement by stating that *“a small group among the total of our plant’s employees have expressed that they are unhappy with labour conditions at our facilities and with what the company provides. We, as a Company, and along with corresponding authorities, have addressed these issues in due time and in the proper manner.”*

A female worker commented on this issue through the social networks: *“Most of us are discontent, but we do not speak because we fear retaliation. Thanks to our peers, who dared to express what occurs in the company, other people know what is happening in here”*.

Early in November 2015, Foxconn workers asked labour authorities to grant them registration to form a new union. On November 27, after the Labour’s Secretary promised them to solve their case, Foxconn workers decided to set up an encampment outside the plant. They have been there for more than two months. On December 29 2015, the labour authorities informed Foxconn workers that they would not be granted registration to form a new union. According to the explanation provided by the authorities, these workers have been dismissed, therefore, they cannot form any unions.⁴⁷

There is another clear example of the complicity between government authorities and this assembly company. The Minister of Labour and Social Welfare of the State, along with the President of the Mexico’s Labour Arbitration and Conciliation Board, visited the plant when workers set an encampment outside the plant. These officials tried to convince workers to

⁴⁴ Barranco, Omar (2015, October 20), “Despide Foxconn a ingeniero que se puso en huelga de hambre” en *Norte Digital*, disponible en <http://nortedigital.mx/despide-foxconn-a-ingeniero-que-se-puso-en-huelga-de-hambre/> (Accessed on March 2016)

⁴⁵ An administrative letter is a document where the company notifies the worker, in written form, about the sanction they intend to impose on them. Then the company forces the worker to sign such document in order to leave evidence.

⁴⁶ A member of CEREAL read it while doing interviews with workers.

⁴⁷ El Diario.mx (2015, december 29). *Niegan registro de 2 sindicatos de trabajadores*. Available from http://diario.mx/Local/2015-12-29_82c5a72a/niegan-registro-de-2-sindicatos-de-trabajadores/ (accessed December 9, 2015).

dissolve the demonstration; after several attempts, they succeeded⁴⁸. Workers refused to leave establishing that it was inhumane to continue to accept their very low wages. It is worth mentioning that these government officials should protect workers from maquiladoras' abuse. They should be taking note and supporting the association that the workers are trying to organize.

CEREAL contacted Foxconn through the EICC and, after a series of negotiations, the company agreed to issue a statement about our report. The following is the full company's statement:

The following is our response to references to Foxconn in the CEREAL report entitled "Freedom of Association: a dream that may become a reality in Ciudad Juarez."

Foxconn is committed to maintaining a safe and positive working environment and to respecting all relevant laws and regulations and to honoring the EICC Code of Conduct.

The guidelines inherent in that Code are incorporated into the conduct codes of all our global operations. As noted below, the CEREAL report contains allegations about our company that are not supported by the facts.

- *Our company in Ciudad Juarez has always been committed to being a responsible employer and a good corporate citizen and it has fully complied with all relevant Mexican laws and regulations ever since it was established in 1996.*
- *As part of that commitment, we offer our more than 4,000 Ciudad Juarez-based employees wages and benefits that significantly exceed statutory requirements and that are competitive with our industry peers.*
- *Our company places a high priority on ensuring the welfare, health and safety of all our employees, and our policies and practices meet all relevant laws and regulations. As part of our commitment to providing a positive working environment, welfare committees enable employees to take an active role in advising management on many aspects of our operations.*
- *In keeping with our commitment to respecting Mexico's labour laws and the EICC Code of Conduct, the freedom of association rights of all workers are fully protected. The company has always supported the rights of employees to express their views and clear channels have been established to address their concerns as part of this process. In doing this, the company ensures that workers or worker representatives can freely communicate with managers regarding working conditions and management practices, without fear of reprisal.*
- *We continuously take actions to ensure that we maintain a working environment that complies with all relevant laws and regulations, including those dealing with health and safety. This is a key factor in the success we have in recruiting and retaining employees and ensuring that we maintain our high production standards.*

⁴⁸ EDITORA, AR, "Acuerdan 103 obreros de Foxconn terminar huelga en Ciudad Juárez" en La Opción de Chihuahua, (2015, November 29) Available on <http://laopcion.com.mx/noticia/115512> (Accessed May 2016)

- *We clearly communicate to employees at all levels of our company that we do not tolerate any form of discrimination. Related to this, we have policies in place, as well as channels that include an employee hotline, to facilitate the reporting of any allegations of discrimination. All reports are taken seriously and investigated. If a report is found to have merit, immediate action is taken to address the matter. We also take the issue of harassment very seriously and we carry out mandatory anti-harassment training for all employees. In the past, unfortunately, there have been complaints regarding sexual harassment, and the record shows that in every instance we have carried out a full investigation. If an investigation supports an employee complaint, we take immediate action that can include termination of supervisors or employees found to have violated the law or our Code of Conduct. The result of each investigation is shared with the employee who filed the complaint.*
- *Any overtime work is voluntary and our policies and practices comply with Mexican labour law and the EICC Code of Conduct.*
- *As all employees are aware, each year we provide a list of Mexican and company holidays observed by our company. Our policy regarding holidays fully complies with Mexican labour law.*
- *It is a matter of public record that our company has dismissed for cause a small number of employees who have breached the terms of their contract or who have been found to have violated Mexican law or committed gross violations of our Code of Conduct.*
- *We would like to address the statements in the report about former employee Carlos Serrano. Mr. Serrano was terminated because, in carrying out activities that disrupted our operations and caused financial loss to the company, he violated the terms of his employment contract and our Code of Conduct. The payments provided to Mr. Serrano at the time of his dismissal only represented his final paycheck, including payment for accumulated vacation, and all other funds to which he was otherwise entitled under the terms of his contract.*

We will continue to work to ensure that all relevant laws and regulations and our Code of Conduct are understood and respected by employees at all levels of our company. We do this as part of our commitment to our customers, our workforce, and our shareholders.”

CEREAL visited Ciudad Juarez again before finalizing this report. Contrary to what Foxconn claims (the company has sought to play down the significance of the workers’ movement since its beginning) – the workers’ movement has increased its number of affiliates. From the 120 workers who started it, their organization has reached the necessary number of members to claim the right to sign the collective bargaining agreement with the company.

It is important to notice that, with regard to the reasons of Carlos Serrano’s dismissal, Foxconn refers to the demonstrations carried out by Serrano and his co-workers as “*activities that disrupted our operations and caused financial loss to the company, he violated the terms of his employment contract and our Code of Conduct.*” However, these demonstrations were carried out in conformity with the Mexican Labour Law and with the international labour treaties Mexico has signed.

Carlos Serrano did not receive any type of severance payment, not even what is statutory required. Proof of this is that the legal complaint is still open in the Local Labour Arbitration and Conciliation Board. Foxconn has been using the Mexican Labour Law in such a way that delays the process and makes the workers desist from seeking justice to their problems. This can be verified by consulting the file in the archive of the Local Labour Arbitration and Conciliation Board.

On the other hand, the work environment and working conditions that Foxconn's employees reported to CEREAL in our interviews, differ greatly from what the company claims. For example, the company states that employees' wages and benefits significantly exceeds statutory requirements and that are "competitive" compared with their industry peers. However, in practice, that means that Foxconn workers earn a few pesos more than their peers. Moreover, that doesn't mean that their wages are enough to meet their families' needs.

In spite of Foxconn's and the government's reluctance, the workers continue to draw on the Mexican Labour Law in their efforts to get their labour union registered. We hope that Foxconn and its customers proactively protect and respect the right of freedom of association of their workers and will be willing to establish a dialogue that leads to a collective negotiation.

ADC

CommScope has two manufacturing plants located in Juarez. One of them is best known by its legal name—ADC. Besides these two plants, the company also has a plant in Delicias city and another in Mexico City, totaling 4,200 employees.⁴⁹

In October 2015, employees decided to get organized and demand improvements to their labour conditions. Among their requests, there is a salary increase and respect to freedom of association. They are calling for a decent wage that adheres to the Mexican Constitution, specifically in regards to women, who are a majority of workers at ADC.

This manufacturing plant produces fiber optics to supply Telmex, Cisco, Verizon, AT&T, among others.

Workers complain of a skin rash caused by the fiber optics, and lesions on their arms from repetitive labour. They say that they lack the necessary personal protection equipment and adequate ergonomic adjustments.

Workers told us that 15 years ago, this was a leading company in terms of best practices and compliance. These good qualities have faded away, which is most noticeable in relation to instances of verbal abuse by middle management.

As in other plants, wages are not enough to meet family needs. Workers here also look for ways to increase their income by working overtime. They told us that they have to bribe supervisors with a bag of potato chips or some money at least, to be assigned overtime. This is important to

⁴⁹ Norte Digital (October 1, 2015). "Adquiere Commscope de EU naves industriales en Juárez", Available online: <http://nortedigital.mx/adquiere-commscope-de-eu-naves-industriales-en-juarez/> (accessed April 20, 2016).

them, for these extra hours would increase their wage by 30%. Normal shifts are 9.5 hours, from Monday through Friday, plus overtime.

On September 16 2015 they started organizing a union and submitted a petitions letter that included the following request: no unjustified changes to labour shifts, specifically to women who are mothers, because this complicates the care of their children. "The company forgets we have families", comments Saira, a working mother of two.

Another request relates to overtime payment. They want it to be properly paid, with no abuse.

The company took the forming of the union the wrong way. They cut overtime out and later on these organized workers were dismissed.

Workers have some footage that shows the intimidation they were subjected to when they tried to create their union. In it, company representatives try to threaten workers by telling them that what they were doing is illegal and that they would be dismissed.

Workers who were fired decided on setting up an encampment outside the plant to demand they were given their jobs back and that their rights to freedom of association were recognised. After having kept their encampment for 43 days, on December 4th, 2015, workers agreed to withdraw, thanks to the promise made by the local Labour Secretary, and by the President of the Juarez's Labour Arbitration and Conciliation Board, who visited them while they were demonstrating.⁵⁰

On December 16, labour authorities granted registration to ADC-CommScoppe's workers union, an unprecedented action that never before occurred in Ciudad Juarez or Mexico. For over 30 years no independent labour union has been granted formal registration, only those unions close to the government have been able to register. Now there is a newly formed labour union, organized by workers themselves, independent from authorities. All they need is ADC-CommScoppe to sign a collective contract with this recently formed union. However, this might become into a conflict that could take an indefinite time to get solved.

⁵⁰ Barranco, Carlos Omar (December 4, 2015). *Levantán Huelga*. El Norte Digital, Available from <http://nortedigital.mx/levantan-huelga/> (accessed January 9, 2016).

New ways to produce, new ways to become ill⁵¹

For many workers in Mexico there are no stable contractual relationships; and labour has intensified. Companies have undergone transformations from the organization standpoint as well, offering low wages, repeatedly laying-off massive numbers of people, and abruptly increasing “informal” and “precarious” jobs. With regard to health and wellbeing amongst working population, transformations are visible enough, and according to information provided by the Instituto Mexicano del Seguro Social (IMSS), specifically chronic-degenerative diseases are significant, along with mental disorders, accidents, and violence.⁵²

These new labor conditions, that have recently intensified, are affected by the lack of effective preventative action and in some cases negligence by companies. According to data provided by Tecnología en Seguridad Integral, a consulting company, 90% Mexican companies prepare their health and safety programs only after their first workplace accident occurs, or when they are audited by labor authorities of the Secretariat of Labor and Social Welfare.⁵³

This Chapter includes several cases where workers' health has been seriously compromised.

OhSung

OhSung is a Korean capital company devoted to manufacturing remote controls for LG and Panasonic. On its website, the company describes itself as a global leading company in the field of remote control manufacturing.⁵⁴ In the same text, they declare producing around 3 million control devices per month.

How is it that OhShung has achieved to become a leader in remote control devices?

Juana's case is a very good example of what occurs inside this manufacturing plant. She is 54 years of age and has been working there for almost 14 years. Her job consists of manually assembling remote control cases. By one single hand movement she has to snap two pieces in, so they can remain attached to each other by safety staples. After 14 years of carrying out this repetitive action, Juana has developed rheumatoid arthritis.

⁵¹ Korean Transnational Corporation Watch is co-author of this chapter. Most of the field research (interviews and analysis) was done jointly.

⁵² Noriega Elío, Mariano et al. (2009). Deterioro de las condiciones de trabajo y de salud en México. *Salud de los Trabajadores*, 17(1): 61-67. Available from <http://www.scielo.org.ve/pdf/st/v17n1/art06.pdf> (accessed October 15, 2015).

⁵³ CNN Expansión (September 30, 2011). *Empresas a prueba de accidentes: Cuatro buenas prácticas para disminuir el riesgo de accidente en un centro laboral*. Available from <http://www.cnnexpansion.com/manufactura/2011/09/30/conocer-la-normatividad-1> (accessed December 12, 2015).

⁵⁴ OhSung Electronics LTD (2015). *The Global Leader in Remote Control*. Available from http://www.ohsungec.com/ose_eng/sub06/OHSUNG_HomeNet.pdf (accessed December 2, 2015).

“Look at my hand—Juana said. I cannot open my hand. The tendons hurt; they no longer react properly.”

Despite this situation, Juana continues to work the way she has always worked and has been forced to continue to snap-in an average of 700 remote controls a day. *“I have asked for someone to help me, but they don’t listen”*, Juana said.

Besides all this, the Company has denied her leave to go to see a doctor at the medical clinic Social Security Institute (IMSS). She has also been threatened by Human Resources staff.

“I’ve been told that if I ask for leave, I’ll be sanctioned and they will send me out to have some rest. Oftentimes I cannot stand the pain, but still I cannot leave the plant. If I do, they say, I’ll be fired. I fear losing my job. Just imagine! At my age, who would hire me?!”

To Juana, and to her peers, it is very difficult to afford private health care since they only make \$97.00 pesos daily (between 5 and 6 dollars).⁵⁵ They have to be very careful with their money, for it is all they have to cover their basic needs so they can continue to work.

With such a case, we recommend that LG make their suppliers comply with what they offer to their own employees.

“LG endeavors to respect the human dignity of its employees and provides fair treatment based on their abilities and performances.”

Industry in general, but mostly all prestigious brands, should make sure their products not only bring satisfaction to end customers and great profit—they also should look for a positive impact on the lives of communities where they base their manufacturing. The EICC Code of Conduct has established that this is an initiative that involves the supply chain as a whole. Additionally, the ruling principles that companies should abide by, and the UN Guiding Principles on Business and Human Rights (Principle No. 19) state that “if a company has leverage to prevent or mitigate negative results, they should enforce it. If they have no leverage over that related entity, they should find a way to have it. Leverage can be achieved by offering an increase of capabilities, or any other incentives, even collaboration with other stakeholders”⁵⁶.

We send this case to the company. This is their full response:

OhSung is carrying out a series of actions to improve the working conditions of all of our employees. This is what we are doing:

1) We are trying to reduce the activities that imply physical effort; we are going to introduce the use of specialized machinery for these processes (e.g. lifting boxes,

⁵⁵ Equal to one-hour minimum wage in the United States for the year 2000.

⁵⁶ Cf. *Should I stay or should I go? Exploring the role of disengagement in human rights due diligence*, published by SOMO in April 2016, available online: http://www.somo.nl/publications-nl/Publication_4293 (autores: J. Wilde Ramsing, M. van Huijstee, L.C de Leeuw).

assembling components, etc.)

> We are going to rotate employees who carry out repetitive activities, to prevent accidents or illness caused by those activities.

2) We have hired the services of a certified occupational physician, who provides consultations three days a week, examines each of our employees and conducts general physical examinations regularly.

> We are going to request our employees to approach the infirmary to tell the doctor their symptoms and ailments, so we can have feedback from them and the doctor.

3) We are implementing continuous training and induction to all our current and new employees about health, safety, and hazards in the workplace.

> We are going to put into effect a procedure for holiday requests. Employees will request their holidays to their immediate boss, and if for any reason their right is denied, they will be able to approach human resources department to solve the request.

4) We set up a suggestion box to collect employees' comments to improve work processes and health and safety in the workplace.

> We are also working to improve and speed up the answer to comments and requests provided by our employees.

On the other hand, we want to let you know that there has been a misunderstanding with regard to the issues mentioned in your report:

1) Juana (54 years old) worked assembling remote controls with her hands. This activity is exclusively carried out by men. At the beginning of 2014, we completely automated this process with the introduction of machines, in order to prevent hazards to our employees. We ratify that this process is exclusively carried out by men.

2) In your report, it is claimed that Juana earns 97.00 pesos per day, but her actual daily wage is 162.00 pesos, including other employee benefits. In addition, Juana said she earned 97.00 pesos working as a 'cerradora' (assembler); we pay an extra 40.00 pesos to all our employees who work in this position, earning a total of 200.00 pesos daily. The minimum wage in Mexicali is 97.00 pesos for the general working population, but we offer a higher wage to our employees.

With regard to the 97.00 pesos, we don't know which year you are referring to, because it is even higher than the minimum wage of previous years, so there is no way to prove its accuracy.

We hope that CEREAL's plans and good intentions have a positive solution. We will continue to work on the issue.

LG also replied to CEREAL about the issue. This is their full response:

In addition to OhSung's explanation to the report, I added LGE's effort on Supplier's Corporate Social Responsibility Risk Management program.

We think corporate social responsibility (CSR) in supply chain is most important, because it is not under our direct control.

Basically we ask our 1st tier supplier to comply CSR requirement described in our supplier code of conduct.

(http://www.lg.com/global/pdf/business-partner/2016%20LGE%20Supplier%20CoC_Eng.pdf)

In case of Mexico, Mexicali subsidiary HR office made Spanish version of supplier code of conduct and distributed to major suppliers last year.

Also there is a plan to do on-site CSR check for major local suppliers by internal auditors in Mexicali subsidiary this year.

And HQ Procurement department operate CSR risk management program on annual basis.

(CSR team also supports this program and HQ CSR team has CSR program for outsourced suppliers separately.)

The program consists of self-assessment for major suppliers and on-site audit and consulting program for high risk suppliers.

If necessary, we do some special inspection program for suppliers in countries such as China which have CSR issues

We also have CSR aspect in supplier assessment procedure. Detailed program can be checked in the website below. <http://www.lg.com/global/sustainability/business-partner/csr-in-supply-chain> And we will update this and released new our sustainability report which show our progress this June.

If you have any question or proposal to on our program, please let us know.

Personnel transportation services: Lipu, Scott, Paisano

While trying to reduce operative and production costs to a minimum, and in order to become "more competitive", often companies pay little attention to issues of utmost importance that, if ignored, may endanger their employees. One of these highly

important issues relates to the transportation of personnel. On our previous report,⁵⁷ we documented the labour conditions of Scott and Lipu's drivers and its consequences.

As part of the follow-up to Lipu and Scott's cases which we documented in our last report, these companies committed to increase the number of transportation vehicles, to hire more drivers who can cover resting time and, in general, they offered to properly train drivers and to give maintenance to their units. They assured CEREAL that they are improving and replacing old units with up-to-date ones, recruiting more drivers and trying to provide a better service for their customers.

According to workers interviewed by CEREAL, their rest plan is not fulfilled 100%. Drivers should have one free day on a weekly basis; actually, and based on what workers interviewed by CEREAL say, they only have one free day every other week. This specifically occurs with drivers in charge of the longest routes, like that those to Ocotlan and El Salto. Users told CEREAL that they often get to see drivers sleeping inside the vehicles.

The plan which Lipu and Scott submitted last year proposed to increase the number of vehicles, to serve those users who, risking their safety, had to travel standing in the units. Despite the fact they have purchased some vehicles, these continue to be insufficient and some workers still travel standing in some vehicles.

Companies established a different training plan. CEREAL had the opportunity to collaborate with them, and we identified some issues of serious concern during the training of the drivers.

During one of the training sessions we talked about labor rights and security in the workplace. One of the attendees asked "*If the brakes have failed on a bus, should I refuse to drive it?*" CEREAL representative's answer was the obvious one, "*You shall never drive a bus if the brakes don't work properly.*" However, the person responsible for the training of new drivers responded sharply otherwise. He said the most important thing is to provide the service, even if the vehicle has no brakes, that they should use engine braking and never stop service.

We have many examples that are proof of how transportation companies conceive the service they provide. They prioritize profit over safety of both drivers and users. In regard to this issue, Lipu's representative said to CEREAL that the company is trying to solve this training issue, but at the moment we don't have knowledge about the company's plan. This year we have documented several cases related to this same issue.

In March 2014, a bus that belongs to Paisano, company that transports Samsung workers, burst one of its tires and violently collided with a cement mix truck.⁵⁸ A person died at the site of the

⁵⁷ Cf. Centro de Reflexión y Acción Laboral, *Paying the Price for flexibility: Workers' experiences in the electronic industry in Mexico. Sixth report on working conditions in the electronic industry in Mexico*. México, GoodElectronics, 2015, pp. 18-21.

⁵⁸ Santillán Roberto (2015, March 10), "Una llanta recubierta, causa del accidente en el bulevar 2000" en *Diario de Tijuana*. <http://www.diariotijuana.info/una-llanta-recubierta-causa-del-accidente-en-el-bulevar2000/> This is not the first time that someone dies in this type of accident. On May 11, 2011, a bus of Paisano crashed and,

accident and 25 workers were injured.

According to experts' inspection and report, the accident was caused by the bad condition of the bus's tyres which could no longer bear the weight of the bus.

Workers describe the accident in similar ways. They say buses are usually overcrowded. Maria expressed *"many people never get a seat. The company does not care if it is very hot, and pack the bus until nobody else fits in."*

Pedro, Samsung's worker, described his experience:

"I work the night shift and I was on that bus on my way home. Suddenly I heard people screaming. They said a tyre had just burst. That was when the bus hit the median strip, and next the cement mix truck, that was waiting to turn to the left. I lost consciousness and when I woke up, they were bringing the injured down the bus. Those who could walk were sent on another bus on the same route. When we went to the IMSS hospital, somebody from our company, or the transportation company, told the staff that we were coming from Rosarito, and that this was not a labour related accident. They did not want to pay the full compensation from labour related risks."

Under the Federal Labour Law, article 474, when workers are injured on the way to or from work is considered a labour related risk.

According to workers' testimony, they only got medical assistance. Many were sent back to work that same day. Pedro was injured and his neck still hurts.

Irene, who was on that same bus when the accident occurred, has said that this was not the first time a driver carelessly drove the vehicle. Sometimes they passed the speed limits.

"This is something we had already reported—Irene added, but they did nothing. That day, the driver was driving so fast and when the tyre burst he was not able to get back on track."

In June 2015, Paisano Transportation Company had another accident while transporting another company's personnel. Once again, a person was killed. After this, Tijuana's Mayor said that they would increase inspection of these vehicles.⁵⁹

sadly, one person died. This bus was transporting workers of SANMEX (Samsung de México)

Betanzos, Said (2011, May 11) "Tragico accidente, 1 muerto y 14 heridos," El Mexicano <http://www.el-mexicano.com.mx/informacion/noticias/1/22/policiaca/2011/05/11/472414/tragico-accidente-1-muerto-y-14-heridos> (Accessed on July 6, 2016)

⁵⁹ Agencia Fronteriza de Noticias (2015, June 29). *Transportes "Paisanos" pagará daños por accidente*. Available at http://www.afntijuana.info/informacion_general/42799_transportes_paisanos_pagara_danos_por_accidente (accessed December 10, 2015).

Notwithstanding, when CEREAL's team visited Tijuana last September, and met with some of Samsung's workers, users of this transportation service said that they had not seen any changes compared to what they saw last March. They agreed that vehicles continue to travel with more people than they should.

Manuel, one of the Company's driver, states:

"We are paid \$20 pesos per trip. If gasoline is not enough for whatever reason, we have to pay for it. We are requested 24-hour availability and, since we are not paid a salary, we normally feel very anxious for we may not have enough money to eat."

Ciudad Juarez' case is not very different. Last November 2015, a bus of a company which is Foxconn personnel transportation provider fell over an eight-meter slope, with 20 workers inside. Two of them were killed in this accident⁶⁰.

In addition, often these buses do not comply with Traffic laws and regulations. Standards forbid vehicles older than 10 years of age are used for the purpose of transporting passengers. Although the company expressed buses they use are models 2000, drivers interviewed by CEREAL contradict this version: *"They are pure junk with lots of problems. They suddenly stop and won't start again. They fail very often"*.

The company argues that the accident was due to the lack of public lighting and traffic signaling on that specific street.

We sent a questionnaire to Samsung asking about this and other issues. With regard to transport service issues, this is their response:

First off all, Samsung Mexicana offers our deepest condolences to the family of the two deceased employees of Samsung Mexicana, from the accident of March 2015. (The third deceased was an employee of the transportation company, Pisano's, and not ours.)

To correct your numbers, we had two of Samsung Mexicana's valuable employees pass away on that day, and 25 others employees were injured from the accident. These 25 employees received due medical treatment, as well as due compensation, in accordance with IMSS regulations. The cause of the accident was determined by the corresponding authorities to be the fault of the driver. (...)

We are in the process of changing our transportation company, and seeking even from out of the State of Baja California with a better qualification. The reason for this is that, we have been struggling to find a safer and better qualified service provider in Baja California since the last accident.

⁶⁰ Valenzuela Aarón,(2015, Nov 03) "Imprudencia del chofer causó accidente; está detenido" en larednoticias.com available online <http://larednoticias.com.mx/noticias.cfm?n=166748> (accessed on Jly, 2016)

Samsung Mexicana has provided the families of two deceased employees the funeral cost and all other compensations indicated under Mexico's Labour Law. Additionally, the Company has made sure that insurance company of Pisano's has fully covered the amount indicated in the policy for each family, in full compliance with Mexican laws which govern the case of death in an accident.

Samsung's response also describes the audit process carried out to transportation vehicles and the frequency of the audits.

Before concluding this report, CEREAL visited Tijuana to meet with Samsung's workers. They recognized that transportation vehicles have been changed, but the improvement has not been significant.

When we checked this information, we found workers who suffered the accident outlined above. They denied having received the full compensation, and two of them worked the day of the accident. All of them said that they had muscle, bone and joint pains, as a consequence of the accident.

The new transportation company is SETTEPI. The workers' opinion is that this company does not constitute an important improvement because drivers behave similar to Paisano's and the transportation vehicles are not in good shape. We have to remember that one of the witnesses said that the accident was caused by a tyre bursting. The images below show the vehicles of the new transportation company.



Image 1 Source: CEREAL



Image 2 Source: CEREAL

Discrimination is not a value to pursue

Outsourcing companies have also adopted a discourse of respect for human rights and corporate social responsibility. It is not uncommon to find that on their web pages or other social media where they advertise job positions, they also describe themselves as socially responsible entities; their websites include evidence of such actions by showing certificates obtained and other achievements



Image 3 Source: <http://www.azanza.com/> <http://www.damsa.com.mx/>

According to CEMEFI, Mexican Center for Philanthropy, the institution that grants the Socially Responsible Company Certificate, social responsibility must be based on “standards that honor human rights, business ethics and fair treatment to employees.”⁶¹

⁶¹ Centro Mexicano para la Filantropía (2013). *Curso de Responsabilidad Social Empresarial y PyMEs*. Available from <http://www.cemefi.org/servicios/noticias/rse/1852-curso-de-responsabilidad-social->

Frequently, as we walk through the streets, or open a newspaper, we read about job opportunities in the electronic industry, and the labour requirements to be met.

“Operators: inexperienced women between 18 and 35 years of age, immediate recruitment.”

“Diagnostic Technicians: men from 23 to 40 of age, with 4 years minimum experience.”⁶²

In 2014, the Mexican Supreme Court of Justice, declared this type of job advertising unconstitutional because for they breach Mexican Constitution Article 1.

“In the Mexican United States, all individuals shall be entitled to the privileges and immunities granted by this Constitution. Such privileges and immunities shall not be restricted or suspended (...) Discrimination based on ethnical or national origin as well as discrimination based on gender, age, disabilities of any kind, social status or of any kind, civil status or on any other reason which attempts against human dignity and which is directed to either cancel or restrain the individuals’ privileges and immunities, shall be prohibited”.

Some of the reasons the Supreme Court expressed are the following:

“The right to nondiscrimination shall be respected at all times by both government authorities and by all individuals. Thus, despite employers are free to recruit, they shall refrain from discriminating when selecting recruits, allocate working hours or establishing conduct standards and discipline in the workplace.”

“One shall never generalize and think that people of a certain age enjoy specific mental and physical skills, for every person is unique. Therefore, elderly people do not necessarily are less productive. This is simply a social stereotype”⁶³

Discrimination is considered a crime in Mexico, as well as a serious violation of human rights.

Josefa worked for an electronic company for 16 years, but suddenly she was dismissed. She is currently 53 years old. Her being fired forced her to try to find a job right away, otherwise, she would fall in debt, or she probably would have to sell some of the belongings that she worked for many years to get.

[empresarial-y-pymes.html](#) (accessed December 9, 2015).

⁶² Statements taken from job descriptions, found on posters set by Damsa and Azansa, both outsourcing companies, at their offices.

⁶³ Suprema Corte de Justicia de la Nación (November 12, 2014). *Discriminación por razón de edad en el ámbito laboral*. Available from http://www2.scjn.gob.mx/red/coordinacion/COMUNICADO_202_2014_NOV_DISCRIMINACION%20POR%20RAZON%20DE%20EDAD%20EN%20EL%20AMBITO%20LABORAL.pdf (accessed April 20, 2016).

It took Josefa a complete year to find a new job and get back to work. Although she is a qualified, well-trained and experienced worker in the field of the electronic industry, this was not enough to get her back on her feet in the same industry.

Once, when she tried to apply for a job offer by Damsa, she was rejected based on the basis that she had surpassed their age limit. *“I went there to get a job but was rejected because I was older than their required age. I asked for a position in the assembling area because that is a task I can easily complete. I am one of the very few ladies of my age that has no hand related problems, but they did not care.”*

Months went by and she had to borrow money from friends and family. She sold her TV set and some jewelry which a close friend had given her as a present.

“Every single day I would leave home to try to find a job, applications in hand. I tried to keep my good attitude and high spirit, but at sometimes I couldn’t. They want us to retire at an older age, but at the same time we are not offered any job positions to do so.” She then found a job position being offered at Azanza, but there she was also told she was already too old. *“I couldn’t stand it no more. Do you know what this is like? After having worked for so many years now they make me feel useless, as if I had nothing to offer to any company.”*

Josefa filled out too many applications and sent them in everywhere she could, but one day she started losing hope. She thought she would never be able to find a job in the same industry she had worked in for so many years.

She even got to a point when she would eat only one meal a day, because she didn’t have enough money to do more. *“I was forced to eat one meal a day. I had to pay my transport to get to the companies and make copies or buy job applications forms.”*

According to data provided by the *Association for nondiscrimination at work based on age or gender*⁶⁴, employment limitations established by companies in Mexico mostly relate to both gender and age. This is the reason why so many professionals, technicians and assembly workers, both men and women, are currently unemployed. The maximum age to get a job has been continuously reduced. Maximum age established by many of the companies ranks from 25 to 35 years of age.

On the other side, most vacant positions are offered exclusively to either women or men. The National Council for the Prevention of Discrimination agrees with this pattern.⁶⁵ As a paradox,

⁶⁴ Ciudadanos en Red (2009, January 9). *Asociación por la no discriminación laboral por la edad o género AC* (Espacio Ciudadano). Available from <http://ciudadanosenred.com.mx/asociacion-por-la-no-discriminacion-laboural-por-la-edad-o-genero-ac/> (accessed October 4, 2015).

⁶⁵ Consejo Nacional para la Prevención de la Discriminación (2014, January 14). *Discriminación laboral por edad inicia a los 35 - 40 años*. Available from http://www.conapred.org.mx/index.php?contenido=noticias&id=4600&id_opcion=446&op=447,%20 (accessed December 19, 2015).

reforms made to pension and benefits system have fixed older ages to retire.

There is also a very strong tension between the statement regarding human rights and the way companies and their business partners behave. It is true that a high percentage of electronic industry workers have worked for many years now and as they have aged, they have fewer possibilities to get a job in that same field.

We encourage outsourcing and recruitment companies to set a standard and harmonize their practices according to what the Mexican Constitution and International Labour Treaties have set forth in order to protect workers from labour discrimination, to be congruent with their codes of conduct and ethics guidelines.

Eventually, Josefa found a job in a pharmaceutical company. No company in the electronics field was able to offer her a job.

Appendix 1: The Mexican Electronic Industry in 2015

2015 was a year of economic growth in the electronic industry in Mexico. However, at the same time, labour conditions have deteriorated. A new Labour Law (approved two years ago), a decreased tax burden, plus a devaluation of the peso against the US dollar have been the main factors that triggered larger investments to the sector as well as the opening of many new projects.

By the end of 2015, the electronic industry, established in Mexican territory, included more than 800 companies that employed about 600,000 workers. The majority of these are foreign companies – 80% of them are US-based companies. A little more than 90% of the manufactures produced by the electronic sector was imported to the United States.

High-definition TV sets, cellular phones, cable receptors, DVD and Blue-ray devices, automotive panels, home appliances, and computers are among the main products the industry produced and in 2015 surpassed US\$75M dollars in exports. Throughout the country only the automotive industry—also comprised mostly of foreign companies- competed to be ranked first for investment, production, employment and exports. Last year's first quarter, companies like Sanmina, Flextronics, Jabil, Foxconn, Samsung, and LG, launched the construction of new facilities or started new projects.⁶⁶ Companies like Oracle and Gigamon announced their arrival to the country with important investments that brought new job opportunities. Coincidentally, IBM celebrated its 40th anniversary in Guadalajara.⁶⁷

A very different aspect is labour conditions of the sector. Average nominal wages for these workers—very low indeed—decreased 5%. In addition, workers' turnover rate in the industry is about six months.⁶⁸

A growing industry

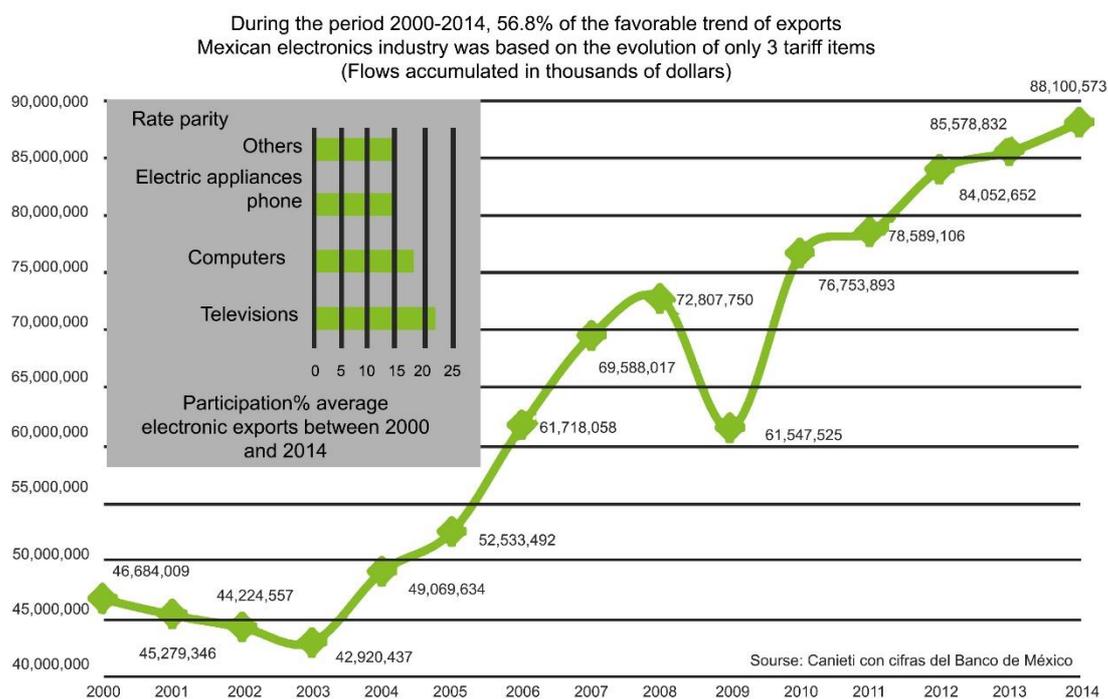
Mexican Labour Law Reforms, issued in December 2013, empowered employers to recruit and dismiss workers with fewer restrictions and almost no responsibilities. These brought more investment from multiple companies and reinforced a set of government programs to release

⁶⁶ El Informador (July 13, 2015). *Electrónica lidera las exportaciones*. Available from <http://www.informador.com.mx/economia/2015/603120/6/electronica-lidera-las-exportaciones.htm> (accessed April 20, 2016).

⁶⁷ El Informador (October 7, 2015). *IBM celebra 40 años en Guadalajara*. Available from <http://www.informador.com.mx/jalisco/2015/618457/6/ibm-cumple-40-anos-de-vida-y-enfrenta-la-nueva-era-cognitiva.htm> (accessed April 20, 2016).

⁶⁸ Data directly obtained from the Center for Reflection and Action on Labour Issues (CEREAL), based on the legal advice provided to workers.

companies from imports and exports duties⁶⁹ (a large benefit to electronic companies that only assemble products that will be sold abroad). The devaluation brought the peso to an 18 to 1 position, in relation to the dollar. This attracted more investment to the technology field, which made electronic companies based in Mexico even more relevant in terms of technology devices production. Due to the large consumption of high-tech devices and appliances, like TV screens, cell phones, and computers in the world, manufacturing companies aim to expand their presence in areas they have already penetrated, or win new markets. This has largely benefitted Mexico. In this regards, Mexico's transformation has been clear, as Table 2 shows; manufacturing exports have largely surpassed oil exports, specifically since 1994, when NAFTA (Free Trade Agreement between Mexico, United States and Canada) took effect.

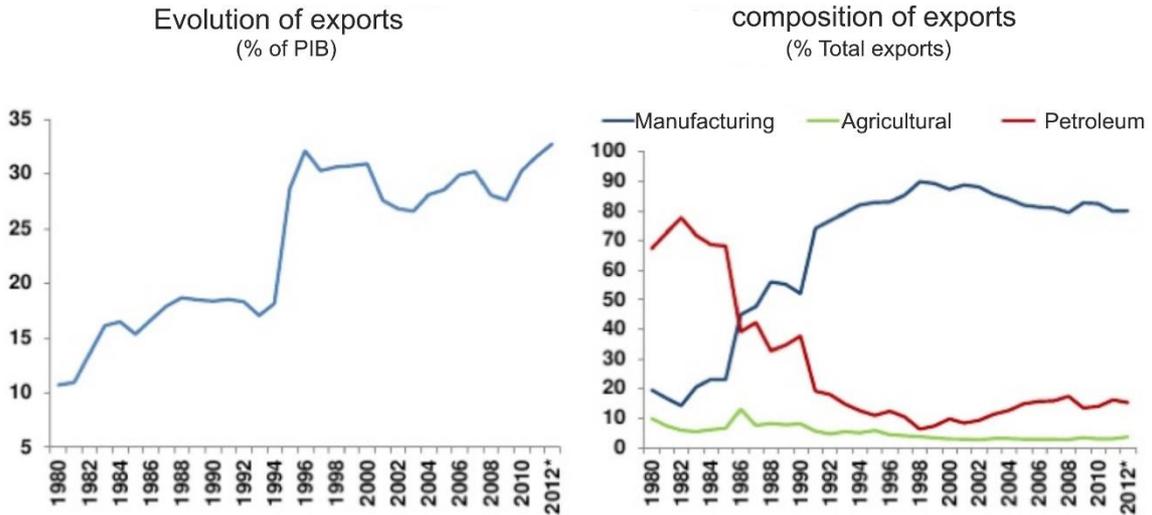


Graphic 2 Source: Canieti. "Cifras y estadísticas 2015". Presentación de diapositivas.

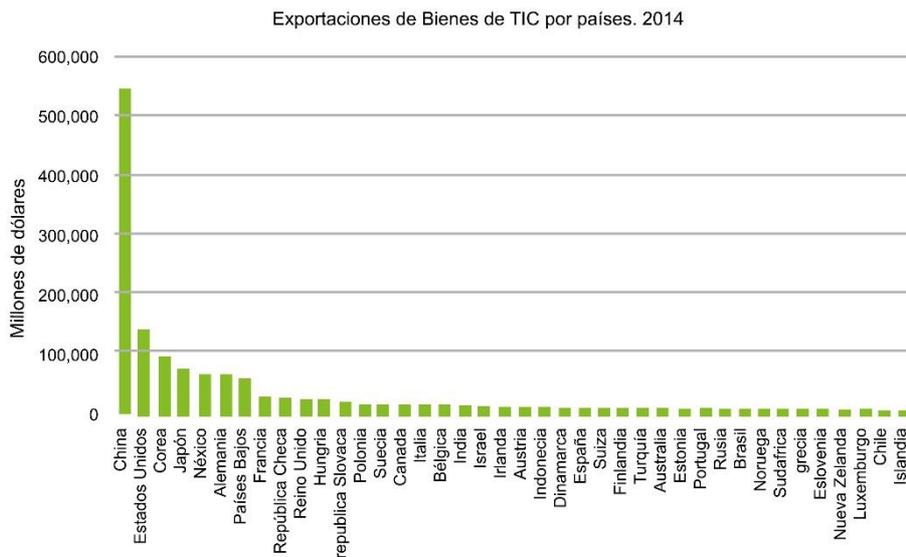
<http://www.canieti.org/Industria/estudiosyestadisticas.aspx>

⁶⁹ The Decreto para el Fomento de la Industria Manufacturera, Maquiladora y de Servicios de Exportación (Decreto IMMEX; in English: Decree to Promote Manufacturing, Maquiladora industry and Exporting Services) from 2006. Source: Secretaría de economía. 2016. <http://www.2006-2012.economia.gob.mx/comunidad-negocios/industria-y-comercio/instrumentos-de-comercio-exterior/immex> Consulted on June 14, 2016.

Structural transformation of the Mexican economy



Graphic 3 Source: Milo, Caraza Alexis. "Política económica en México: avances y retos". <http://es.slideshare.net/Investigaciontelecom/120712-politica-economica-en-mxico-amc-telekonomics>



Graphic 4 Source: Canieti. "Cifras y estadísticas 2015". Presentación de diapositivas. <http://www.canieti.org/Industria/estudiosyestadisticas.aspx>

Ten out of the 800 companies in the sector, that have operations in Mexico, are the leaders in the production of electronic devices and number of manufacturing facilities. These are Foxconn, LG, Samsung, BlackBerry, Flextronics, Intel, HP, Panasonic, Ericsson, and Motorola.

Recently, Flextronics brought an investment of US\$ 20 million dollars to the State of Jalisco. This company has been in the country for more than 17 years, with facilities in Guadalajara, Ciudad Juárez, Chihuahua, Tijuana, Aguascalientes, and Coahuila. Flextronics is responsible for half the production of BlackBerry in Mexico. In 2014, BlackBerry moved most of its operation to Ciudad Juárez, Chihuahua, as part of its plan to reposition itself in Mexico⁷⁰.

On the other hand, in October 2014, Samsung Electronics announced a 100-million-dollar investment aimed to strengthen their operations in Tijuana, Baja California, for the next five years. Tijuana is where Samsung holds production of Smart TVs and LCD screens.⁷¹

According to data provided by ProMexico, a government agency, production of electronic devices is expected to increase 35% by the year 2020 compared to that of 2014.⁷²

Foxconn, a Taiwanese company, world leader in electronic devices production, together with LG are the electronic companies that have invested most in Mexico. The former has ear-marked more than US\$230 million dollars to expand its facilities through the Mexican border, while the latter has invested more than US\$360 million dollars in the past four years.⁷³

On the other hand, Intel opened a Design Center in Guadalajara, Jalisco, with an investment that almost totaled US\$ 173 million dollars. Other companies like Panasonic, Motorola, Hewlett-Packard, Jabil, and Ericsson have also bet on expanding their operations by investing in production plants and facilities throughout the country.⁷⁴

These groups have concentrated mostly by Northern Mexico. The States with the largest production are Baja California, Chihuahua, Jalisco, Nuevo Leon, Aguascalientes, Sonora, Tamaulipas, Coahuila, Estado de Mexico, Queretaro, Durango, and Yucatán, respectively. In these states, these companies have 679 production plants that provided jobs for 458,563 people

⁷⁰ El Financiero (January 8, 2015). *10 gigantes que impulsan la industria de electrónicos en México*. Available from <http://www.elfinanciero.com.mx/empresas/10-gigantes-tecnologicos-que-impulsan-la-industria-de-electronicos-en-mexico.html> (accessed April 20, 2016).

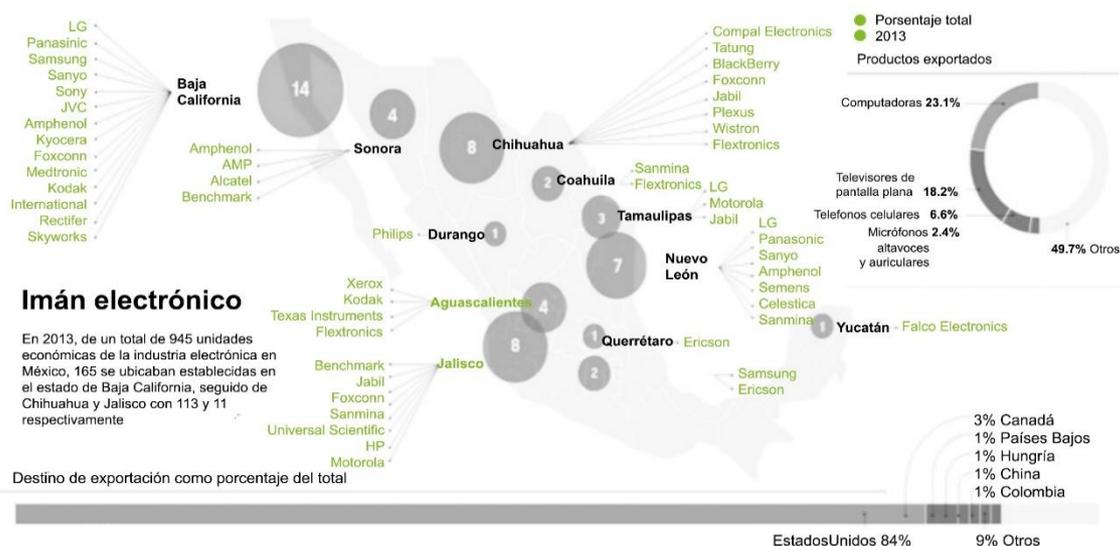
⁷¹ *Ibidem*.

⁷² Zavala Aznar, Georgina (2014). *Industria Electrónica*. Mexico: ProMexico, Secretaria de Economía. Available from http://mim.promexico.gob.mx/work/sites/mim/resources/LocalContent/290/2/141216_DS_Electronico_ES.pdf (accessed April 20, 2016).

⁷³ El Financiero (January 8, 2015). *10 gigantes que impulsan la industria de electrónicos en México*. Available from <http://www.elfinanciero.com.mx/empresas/10-gigantes-tecnologicos-que-impulsan-la-industria-de-electronicos-en-mexico.html> (accessed April 20, 2016).

⁷⁴ El Informador (July 13, 2015). *Electrónica lidera las exportaciones*. Available from <http://www.informador.com.mx/economia/2015/603120/6/electronica-lidera-las-exportaciones.htm> (accessed April 20, 2016).

in 2013.⁷⁵



Graphic 6 El Informador. “10 gigantes que impulsan la industria de electrónicos en México” Periódico El Financiero. 8 de enero de 2015.

What are living standards like for workers in the electronic industry?

Despite the electronic industry’s growth, labor conditions for the workers of the industry have not improved, quite the opposite—they have deteriorated. For the last 25 years, Mexican workers have lost 75% of their purchasing power. That means that employees are only able to buy 25% of what they could 25 years ago. The situation in the Mexican electronic industry’s situation has become very hard for workers due to the fact that wages are too low.

Between April and June 2015, CEREAL conducted a survey among workers of this industry in order to investigate in depth their current labor conditions.⁷⁶ As the next chart shows, 58% of workers surveyed earn \$114.00 pesos a day. This amount only is enough to cover only 30% of the basic food basket, according to the Multidisciplinary Analysis Center (CAM) of the National Autonomous University of Mexico (UNAM). Even official data provided by the government, through CONEVAL (National Council for the Evaluation of Social Development Policies), point out that in December 2013, the basic food basket costs \$1,315 per person, per month. Therefore, a family of four would need \$5,260 pesos a month. This would mean that an average worker of the electronic industry can only afford 65% of this basic food basket.⁷⁷

⁷⁵ El Financiero (January 8, 2015). *10 gigantes que impulsan la industria de electrónicos en México*. Available from <http://www.elfinanciero.com.mx/empresas/10-gigantes-tecnologicos-que-impulsan-la-industria-de-electronicos-en-mexico.html> (accessed April 20, 2016).

⁷⁶ See Appendix 2, survey methodology.

⁷⁷ Consejo Nacional de Evaluación de la Política de Desarrollo Social (CONEVAL) (2016). *Medición de la pobreza. Evolución de las líneas de bienestar y de la canasta alimentaria*. Available from <http://www.coneval.org.mx/Medicion/MP/Paginas/Lineas-de-bienestar-y-canasta-basica.aspx> (accessed April 20, 2016).

How much does an electronic industry worker earn in Jalisco? Year 2015			
		Percentage	Weekly
When they earn \$1723.80 pesos a week		2.31	344.76
When they earn \$3447.60 pesos a month		58.95	689.52
When they earn \$5171.40 pesos a month		26.70	1034.28
When they earn \$6895.20 pesos a month		10.65	1379.04
When they earn \$8619.00 pesos a month		1.39	1723.80
		100.00	

Table 2 Source: CEREAL

As a consequence, this situation means that electronic industry workers have to carry out additional economic activities in order to make ends meet. More precisely, 65.9% of workers surveyed carry out an additional economic activity, besides working for the electronic industry.

Additionally, most workers in the electronic industry find themselves forced to work overtime in their manufacturing plants in order to obtain a better pay. In average, each worker labors 9 hours and 37 minutes additional to their 48-hour week; 12% of workers surveyed had more than 60 hours a week. That means each worker works an average of 57.37 hours a week. It is truly outrageous that 9.8% workers in the survey said that they were not being paid for this overtime.

Do workers need to carry out additional economic activities to meet family needs?			
		Percentage	
Yes		65.90	
No		34.10	
Does not know		0.00	
Did not report		0.00	
Total		100.00	

Table 3 Source: CEREAL

What economic activities do workers carry out to increase their income?		
	Percentage of total respondents	
At a beauty saloon	2.11	
As a waiter/waitress	5.39	
At another manufacturing plant	8.90	
Selling jewelry	4.92	
Mending other people's clothes	12.65	
As a car-washer	3.28	
Doing errands	3.04	
Making and selling handcrafts	7.49	
At a laundry	2.11	
Selling shoes	8.90	
Fixing and selling food	8.20	
Cleaning other people's homes	9.84	
Selling used cars	1.41	
Selling clothes in a flea-market	2.11	
As a mechanic assistant	0.94	
Selling door-to-door cosmetics	10.07	
As a dish-washer in some restaurant	1.41	
As an electrician	0.47	
As a driver	0.47	
Fixing cars' exteriors	0.94	
Laundry and pressing clothes	2.11	
At a grocery store	3.28	
Total	100.00	

Table 4 Source: CEREAL

Are they paid overtime?	
	Percentages
Yes, they are paid overtime	68.83
No, they are not paid overtime	9.88
Sometimes they are paid overtime	4.94
Yes, in compliance with the Law	4.94
They do not work overtime	2.62
The do not know	0.00
Did not report	0.00
Total	100.00

Table 5 Source: CEREAL

As a confirmation that wages in the electronic industry in Mexico are too low, 51.70% workers surveyed asserted that the main reason for switching jobs is low wages. However, an alarmingly 29.51% among them declared the main reason for switching jobs was labour harassment.

What are the most common reasons to leave a job or a company?	
	Percentages
Low wages	51.70
Overwork	5.56
Do not know	0.00
Did not report	0.00
Labour harassment	39.51
Better opportunities	2.78
Advanced resignation	0.31
Lack of production load	0.15
Total	100.00

Table 6 Source: CEREAL

Fixed-term contracts are another critical point in terms of deficient labour conditions in this industry. The next chart shows that 59.73% workers surveyed report that they are on a fixed-term contract, from only a few hours to one complete year.

Time span they are hired and paid for	
	Percentages
For a few hours	5.25
1 month	10.03
1 year	6.64
Permanently	30.56
Indefinitely	9.72
Interim	9.72
Fee-paid (as free lancers)	0.00
Definitive	0.00
Project fees	6.02
Other	0.00
6-month term	19.14
3-month term	12.65
Do not know	0.00
Did not report	0.00
Total	100.00
Total of temporary workers: 59.73%	

Table 7 Source: CEREAL

Temporary jobs are closely related to outsourcing, and outsourcing is a very common practice in Mexico's electronic industry. This has been historically linked to many violations of workers' human rights (they get less or no severance payment, less benefits, etc.). As we show next, more than half of the workers expressed being recruited by an outsourcing company, and not by their real employers.

The company you work for, is the same company that you signed a job contract with?	
	Percentages
Yes	52.93
No	47.07
Do not know	0.00
Did not report	0.00
Totals	100.00

Name of the outsourcing agency that these workers signed the agreement with	
	Percentages
Damsa, Sa. A. de C.V.	4.92
Azanza y Asociados	4.59
SG Mercantile (former GH Global)	3.93
Cosea	3.61
Grupo Industrial Nueva Empresa, SA. de C.V.	29.18
Servi Perss	3.93
SEM	5.25
Man Power	33.44
Apro Consultoría	3.61
PAT	7.54
Total	100.00
Source: Data obtained from the industrial survey performed in the State of Jalisco by students of sociology and by CEREAL. Jalisco, 2015.	

Tabla 8 Source: CEREAL

The issue of Labour unions in the Mexican Electronic Industry

All manufacturing plants in the electronic industry in Mexico have a union, but none of them work as they should in relation to ILO Conventions and international norms. These are unions that have been duly formed and registered in front of a labor authority, but actually, they only exist on paper. They do not hold meetings or assemblies, and do not organize elections or negotiate contracts with these companies. Their boards of directors include people no one has ever met; they never go on strikes or stop production. In fact, in Guadalajara—where many of the electronic companies are based—10 years have passed with no strikes whatsoever. Usually, these unions are formed by one single person, who is the general secretary, and

according to the Mexican Law, this is the workers' representative. Notwithstanding, these secretaries are not employees of these manufacturing companies where their represented workers are employed. In fact, many of these secretaries have never set a foot in any manufacturing plant.

Actually, there are not many general secretaries. They are few in number and form a closed group. Some secretaries are registered to one union only, but some others have registered 3, 5, 10, 20 unions or even more. Most of them do not even have an office or telephone number to be reached at. They do not need that for they assist no one. They do not counsel, nor do they provide any lectures or training courses, for they do not need to. Their job is talking to companies' managers. Promptly, corrupt union leaders got the nickname of "white unions", (*Sindicatos Charros*, fake or false, in the Mexican working class parlance). That is why for more than 30 years, authorities no longer grant registration to new unions. It is only old registrations that continue to be valid and in force, hence their name – "white unions".

The current problem lies in the fact that the Federal Labour Law prohibits both government and employers to get involved in union issues. This prohibition finds its base on a misunderstood union autonomy which has remained unchanged for over 50 years. White unions have benefitted from this alleged union autonomy to do as they please. They pretend they live under union principles when they do not; they submit fake documentation to authorities, like faked list of affiliates and general assembly minutes where allegedly elections took place; they get reelected as secretary generals with no ballots. This explains why most workers already belong to a union without knowing, since their names have been included in a list that was secretly prepared by the union and the company together. Due to the fact that government authorities cannot intervene in union matters, there is no way to prove if this documentation is authentic, although most people in Mexico know these are all false.

The existence of such white unions has been very convenient for companies because these are able to sign a collective bargaining agreement with a union that is never going to cause any trouble. In fact, most companies sign these collective bargaining agreements with these white unions before they open a manufacturing plant, long before they hire their first employee. This is the way companies have to protect themselves since the Mexican Labour Law sets forth that companies can only sign a bargaining contract with one union. By signing an agreement with these fake unions, no other union, real or fake, would approach them. This is why collective bargaining agreements signed between companies and white unions are called *protection bargaining agreements* (or protection contracts) for they prevent all kinds of conflict to companies. As a trade-off, the only request made by these "unions" to companies is a certain amount of money on a monthly or annual basis, as their contribution. CEREAL estimates that more than 90% collective bargaining agreements in Mexico are protection agreements.

In the face of such a situation, the questions many ask themselves are: How is it that workers do not rebel against these white unions? Why do they accept control from someone who is not a worker like them and does not represent them? The answer is a very simple one – if they try to do something to change this situation, they get fired. Sadly, this is a very frequent story in Mexico – workers or groups of workers who have the intention to form a new union or who intend to defend their own rights are dismissed in a matter of days. This Report actually includes three related cases. These are still in course and no solution has been reached. The

real drama of all these stories is that workers cannot find support from their “unions” and they are forced to act individually, with no legal entity to back them up. This is what unions should do—to legally advocate labour rights. Hence, workers who decide on organizing a new union become very vulnerable; actually, they become victims and face retaliation by their employers, by their union, and by authorities.

The case SETEAMI in Guadalajara

In Guadalajara there are more than 200 electronic industry companies. This is one of the most productive areas in Mexico. All these companies have signed a collective bargaining agreement with some ‘white union’. Based on the number of employees, the larger companies in the area are Flextronics, Sanmina, Jabil, Continental, and Foxconn. These five companies together employ more than 40,000 workers. Three of them (Sanmina, Continental and Flextronics) have signed collective bargaining agreements with the same person, Mr. Carlos Fernando Arias Hernandez. Carlos Arias is a lawyer and he is originally from Guadalajara. In his public presentations, he claims having participated in the labour sector practically from the moment he was born, for he is the grandson of Mr. Heliodoro Hernandez Loza, a former and very important union leader in the city. The same as other union leaders of his kind, Carlos Arias has developed his professional career in the public sector, very close to the hegemonic ruling party in Mexico, the Institutional Revolutionary Party (PRI). Carlos Arias was a Councilor for both Zapopan and Guadalajara cities, and he is one of the members of the Board of Directors of Jalisco’s Workers Federation (FTJ). Under his name, there is the Union of Employees and Workers for the assembling and structuring sections of the automotive industry and industrial manufacturing in the State of Jalisco (SETEAMI). Besides Sanmina, Continental and Flextronics, SETEAMI has also signed collective bargaining agreements with Honda de México and Tractebel, two other very large companies in the region. In total and in Guadalajara, Carlos Arias has signed 58 bargaining agreements with an equal number of companies. Hundreds of workers from Sanmina, Flextronics and Continental, who were directly interviewed by CEREAL, said they have never met Carlos Arias. They assure us that they have never heard of him. Obviously, they don’t remember having seen him around.

Companies and labour unions of the Mexican electronic industry, 2015

Company	Labour Union	Secretary General
Universal Scientific industrial de México SA de CV	Sindicato de empleados y trabajadores en la estructura, armadura motriz y manufactura industrial en el Estado de Jalisco	Carlos Arias
Continental Guadalajara Services SA de CV .	Sindicato de empleados y trabajadores en la estructura, armadura motriz y manufactura industrial en el Estado de Jalisco	Carlos Arias
Intel SA de CV	Liga de empleados de comercio e industria del estado de Jalisco	
Jabil Advanced Mechanical Solutions de México, S de RL de CV.	Asociación sindical Salvador Orozco Loreto de trabajadores en la fabricación de artículos metálicos del Estado de Jalisco	
Jabil Circuit de México SA de CV	De trabajadores y empleados 20 de noviembre en maquiladoras, fabricación de calzado y bolsas para dama del Estado de Jalisco	
Benchmark Electronics Servicios, S de RL de CV	Nacional de trabajadores y empleados en centros comerciales, almacenes, oficinas particulares, agencias distribuidoras de automóviles, agencias de viajes y en las industrias del vestido, mueblera, papelería, vidriera, y del calzado conexos y similares, CROM.	
Flextronics Manufacturing Mexico, SA de CV	Único de trabajadores en artefactos metálicos, electrónicos y similares de Jalisco	
Flextronics Technologies Mexico, S de RL de CV	Sindicato de empleados y trabajadores en la estructura, armadura motriz y manufactura industrial en el Estado de Jalisco	Carlos Arias
Sanmina-SCI RSP Systems de México, SA de CV	Sindicato de empleados y trabajadores en la estructura, armadura motriz y manufactura industrial en el Estado de Jalisco	Carlos Arias
IBM de México Comercialización y Servicios, SA de CV	Sindicato nacional Presidente Adolfo López Mateos de trabajadores y empleados del comercio en general y escuelas particulares similares y conexos de la República Mexicana	
IBM Servicios Profesionales S de RL de CV	Sindicato nacional Presidente Adolfo López Mateos de trabajadores y empleados del comercio en general y escuelas particulares similares y conexos de la República Mexicana	

Table 9 source: Secretariat of Labour and Social Welfare, Jalisco.⁷⁸

⁷⁸ STPS (2016). *Relación de Contratos Colectivos e Industrias Familiares capturados. Año 2015* (database). Available from <http://stps.jalisco.gob.mx/justicia-laboral/contratos-colectivos> (accessed February 4, 2016).

Appendix 2: CEREAL's Assessment on Labour Standards Compliance

CEREAL's report on labour standards compliance is based mainly on interviews, counseling, and training work we have carried out with workers of the electronic industry, as well as constant communication with companies' representatives. In addition, we conducted a survey among workers of the electronic industry, which methodology is detailed below.

Survey methodology

We employed a simple random sampling design. The administration of the questionnaire was conducted before the workers took the companies' transportation services.

Data collection was carried out from February 1st, 2015 to January 20th, 2016.

The sampling frame was the companies' transportation's loading-unloading points, distributed throughout the Guadalajara Metropolitan Area. Questionnaires were administered at different times of the day. A pilot survey test was carried out to assess administration times and question comprehension.

The sample size was determined using the following equation:

$$n = \frac{N \cdot Z_{\alpha}^2 \cdot p \cdot (1-p)}{e^2 \cdot (N-1) + Z_{\alpha}^2 \cdot p \cdot (1-p)}$$

Where N is the total number of possibly surveyed cases (households), Z_{α}^2 is the confidence level, which indicates the probability that our results are correct, p is the proportion that an x characteristic under study has, q is the proportion that that same characteristic doesn't have (that is, $1-p$), and e is the sampling error.

The values used to calculate the sample were:

- $N = 110,000$ (the approximate number of workers of the electronic industry in Jalisco)
- Z_{α}^2 (confidence level) = 95%
- e (sampling error) = 5%
- $p = 0.5$ (proportion of workers that do not receive any employee benefit)⁷⁹

⁷⁹ According to the National Survey of Occupation and Employment, conducted by INEGI, 83.8% of salaried workers reported having not received all the employee benefits as required by Mexican labour law. In the case of the electronic industry, we assumed that compliance with this regulation is above the average: 50%.

- $q = 0.5$.

The minimum sample size calculated was 383. We administered 700 questionnaires; 82% of the workers interviewed were women.

Company's Name	Ranking
Sanmina	Getting better
Hp	Getting better
Jabil	Getting better
Flextronics	Getting better
IBM	Getting better
Samsung	Getting better
Continental	Getting better
Technicolor	Getting better
Benchmark	Just the minimum
USI	Just the minimum
Celestica	Just the minimum
Amphenol	Insufficient
Valutech (clover wireless)	Insufficient
Oh sumg	Insufficient
ADC	Very poor
Foxconn	Very poor
Lexmark	Very poor

Table 10 Source: CEREAL

In order to be more objective and transparent as to their evaluation of companies regarding their compliance with labour rights, and taking into consideration some of the suggestions of the companies themselves, CEREAL has designed this Index for evaluating compliance with labour rights, based on human rights standards. The starting point is the principle that establishes the companies' responsibility to respect human rights and to implement due diligence "to identify, prevent, mitigate and account for how they address their impact on human rights" (United Nations Guiding Principles on Business and Human Rights).

This index comprises three dimensions:

1. Labour rights drawing on human rights standards, which includes the following issues: freedom of association and collective bargaining, security of employment, living wage, working conditions (working hours, vacations, absence of discrimination, harassment or humiliating treatment, healthy and safe workplace and working conditions, attention and compensation in cases of work-related risks and accidents, social security, housing benefits), gender equality, maternity and paternity leave and other rights, inalienability of Sanmina Improving HP Improving Samsung Bare minimum Foxconn Bare minimum IBM Bare minimum Jabil Bare minimum Flextronics Insufficient Motorola Insufficient Microsoft Insufficient HTC Very poor Valutech Very poor Benchmark Very poor 42 Paying the price for flexibility: Workers' experiences in the electronic industry in Mexico Sixth Report on working conditions in the electronic industry in Mexico rights, access to judicial mechanisms regarding labour rights.
2. Estimation of prevalence: based on the validity and reliability of the workers' testimonies, CEREAL estimates if a case is an exception, if it could be the case of a group of workers or if it is a structural or systemic problem.
3. Remedy of business-related human rights abuse: grievance mechanism, responsibility regarding supply chain, use of the escalation system (CEREAL-CANIETI agreement).

Issue	Human Rights standards: References in terms of labour rights	References in terms of EICC Code of Conduct
Workers' real chance of forming or joining a coalition or union of their own choosing without the intervention of authorities or employers.	Declaration of fundamental principles and rights at work (ILO core labour standards), United Nations Universal Declaration of Human Rights (UDHR) (art. 23)	A-7 (partial)
Freedom to elect representatives or to be elected	ILO Core Labour Standards, UDHR (art. 23)	"The provisions in this Code are derived from key international human rights standards including the ILO Declaration on Fundamental Principles and Rights at Work and the UN Universal Declaration of Human Rights" (Preamble, 5.0 Version)
Absence of reprisals or harassment related to union activities or leadership	ILO Core Labour Standards, ILO Conventions 87 and 98	"The provisions in this Code are derived from key international human rights standards including the ILO Declaration on Fundamental Principles and

		Rights at Work and the UN Universal Declaration of Human Rights” (Preamble, 5.0 Version)
Collective bargaining, bilateral agreements	ILO Core Labour Standards, ILO Conventions 98	“The provisions in this Code are derived from key international human rights standards including the ILO Declaration on Fundamental Principles and Rights at Work and the UN Universal Declaration of Human Rights” (Preamble, 5.0 Version)
The term of the contract is related to its nature: the contract extends as long as the work extends.	Mexican Labour Law (art. 39).	Fundamental to adopting the Code is the understanding that a business, in all of its activities, must operate in full compliance with the laws, rules and regulations of the countries in which it operates” (Preamble).
Dismissal notice and severance package in accordance with the law, absence of blacklist.	Mexican Labour Law (art. 47, 133), Tripartite declaration of principles concerning multinationals and enterprises and social policy (Tripartite) (art. 24 a 28)	Full compliance with the laws.
Support program to help dismissed workers to get a new job	Tripartite (art. 24 a 28)	“The Code encourages Participants to go beyond legal compliance, drawing upon internationally recognized standards, in order to advance social and environmental responsibility and business ethics” (Preamble, 5.0 Version)
Absence of abusive use of temporal/outsourced work	Mexican Labour Law (art. 15 AD, 39, 39 A-F)	Full compliance with the laws.
Copy of working contract	Mexican Labour Law (art. 24)	A-4 (partial)
Minimum wage (above poverty line)	Mexican Labour Law (art. 90), UDHR (art. 23 y 25)	A-4 (partial)
Equal pay for equal work	ILO Core Labour Standards, UDHR (art. 23)	A-4, A-6 (partial)
Profits distribution in accordance with the law	Mexican Labour Law (chapter VIII)	A-4
Overtime pay	Mexican Labour Law (art. 66-68)	A-4

Working hours	Mexican Labour Law (art. 66-68, chapter II), UDHR (art. 24)	A-3
Vacations	Mexican Labour Law (chapter IV), UDHR (art. 24)	Full compliance with the laws.
Humane treatment, absence of discrimination of harassment	ILO Core Labour Standards	A-5, A-6
Safe and healthy workplace	Mexican Labour Law, International Covenant on Economic, Social and Cultural Rights (art. 7 y 12)	B.
Attention and compensation in case of an accident or workrelated ailment or disease	Mexican Labour Law, International Covenant on Economic, Social and Cultural Rights (art. 7 y 12)	B.
Social security and housing benefits	Mexican Labour Law, UDHR (art. 22)	Full compliance with the laws
Gender equality	ILO Core Labour Standards	A-6
Rights related to pregnancy and maternity leave	Mexican Labour Law (art. 170)	A-6 (partial)
Break for lactation	Mexican Labour Law (art. 170)	Full compliance with the laws
Paternity leave	Mexican Labour Law (art. 132)	Full compliance with the laws
Absence of anticipated signature of resignation letters	Mexican Labour Law (art. 5 y 33)	Full compliance with the laws
Inalienability of rights	Mexican Labour Law (art. 5 y 33)	Full compliance with the laws
Access to judicial mechanisms regarding labour rights	Mexican Labour Law, UDHR (art. 8)	Full compliance with the laws
Access to grievance mechanisms for the remedy of businessrelated human rights abuse.	UDHR (art. 8), UN Guiding principles on Business and Human Rights	“The Code encourages Participants to go beyond legal compliance, drawing upon internationally recognized standards, in order to advance social and environmental responsibility and business ethics” (Preamble, 5.0 Version)
Responsibility regarding supply chain	UN Guiding principles on Business and Human Rights	“Participants must regard the Code as a total supply chain initiative”.

<p>Agreement between CANIETI and CEREAL on the escalation process</p>	<p>UN Guiding principles on Business and Human Rights</p>	<p>“The EICC is committed to obtaining regular input from stakeholders in the continued development and implementation of the Code of Conduct”. “The Code encourages Participants to go beyond legal compliance, drawing upon internationally recognized standards, in order to advance social and environmental responsibility and business ethics” (Preamble, 5.0 Version)</p>
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Table 11 Source: CEREAL

Colofón

Beyond voluntary codes and audits: A challenge for the electronic Industry Seventh report on working conditions in the Mexican Electronics Industry 2016

Autor Centro de Reflexión y Acción Laboral
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