

UCLA
Working Papers

Title

Change and Continuity in Labor Relations in Mexico at the Beginning of the 21st Century

Permalink

<https://escholarship.org/uc/item/7bd4j4tr>

Author

de la Garza Toledo, Enrique

Publication Date

2010-02-01

IRLE

WORKING PAPERS

WP 2010 - 03

Change and Continuity in Labor Relations in Mexico at
the Beginning of the 21st Century

by

Enrique de la Garza Toledo

Universidad Autónoma Metropolitana, Itzapalapa



INSTITUTE FOR RESEARCH
ON LABOR AND EMPLOYMENT
UNIVERSITY OF CALIFORNIA, LOS ANGELES

The views expressed in this paper are not the views of The Regents of the University of California or any of its facilities, including UCLA, the UCLA College of Letters and Science, and the IRLE, and represent the views of the authors only. University affiliations of the authors are for identification purposes only, and should not be construed as University endorsement or approval.

Change and continuity in labor relations in Mexico at the beginning of the 21st century

Enrique de la Garza Toledo¹

The corporative system has predominated in industrial relations in Mexico for the past 70 years. Some people believed it was approaching its end with establishment of the neoliberal economic model, but some 20 years have passed since then and it appears to persist. Others assumed that arrival to power in the year 2000 of a political party other than the traditional PRI would imply the end of this system of industrial relations, but that has not been the case. Nevertheless, important changes have taken place in these past six years. In this essay, we analyze the changes in labor relations during the last 13 years of the PAN government (2000-2009), the first occasion in 75 years of a change of party in power in Mexico.

Change in labor relations over these years took place in the context of two processes. First, the manufacturing sector crisis, in particular the export maquila crisis into the PAN (*Partido Acción Nacional*) government, which may imply that the heart of the economic model forged in Mexico since the 1980s —the export manufacturing model— has reached its limit in terms of its ability to fuel economic growth in exports and employment (De la Garza, 2006). This manufacturing-sector decadence has been reflected in a drop in the unionization rate, as we will see below. The other process is partial restoration of State Corporativism, between the unions affiliated to the CT (*Congreso del Trabajo*²) and the right-wing government. This restoration of the corporative relation translates in these years in a tacit agreement regarding labor peace in exchange for traditional State protections for the monopoly of representation of the corporative unions vis-à-vis potential competitors, especially from the UNT (*Unión Nacional de Trabajadores*) (independent unionism). This had its repercussions, in that no change occurred during these years in terms of the majority presence of corporative unionism in the country, in the support of almost all the CT unions to the labor law promoted by the government, and in the exclusion of independent unionism from consultation on labor policies. But this top-down partial restoration of the corporative relationships, from the top of government, coincided with the permanence of the labor pact

¹ Professor-researcher at the postgraduate department of Social Studies, UAM-I, email: egt@xanum.uam.mx; web: <http://docencia.izt.uam.mx/egt>

² The head organization of corporative unionism is *Congreso del Trabajo* (CT) which comprises 34 organizations, of which the *Confederación de Trabajadores de México* (CTM) and the *Federación de Sindicatos de Trabajadores al Servicio del Estado* (FSTSE) are the most important.

in the middle and micro-levels between unions, local labor functionaries, and management. However, during the Fox government the corporative system took blows to its unity, first with the important division of the FSTSE and then of the CT itself; second, the failure of the productivity bonuses policy as mechanism to increase worker incomes; and, third, in the last years of Fox government the attempts to conform catholic unionism with an alternative ideology different to that of the Mexican Revolution for the unions and a Catholic Corporativism. In other words, by 2006 one could refer to a crisis of union-State relations and a crisis and division of the corporative system itself. In the actual government relationships between unions and State seems more subordinated.

1. Flexibility of labor relations in Collective Bargaining Agreements and Productivity Agreements

In the first quarter of 2009, the majority of the occupied population in Mexico labored in the services.

Table No. 1 : Distribution of occupied population by sector (firs quarter of 2009))

Sector	Percentage
Primary	12.7
Secondary	24.6
Terciary	61.9
Not specified	0.8

Source: INEGI (2009) Encuesta Nacional de Ocupación y Empleo

The occupied population which has traditionally been oriented is that of wage workers, the percentage of this population employed in the industrial sector remained around 30% during the PAN administrations, with the majority of wage workers —more than 60%— employed in the service sector, and this proportion remained almost constant to 2009.

Table No.2 : Distribution of waged population by sector

Year	Primary	Secondary	Third sector
------	---------	-----------	--------------

2000	9.8	32.5	58.2
2001	9.5	31.8	59.1
2002	9.5	30.5	60.6
2003	8.9	30.4	61.2
2004	8.6	30.7	61.3
2005	8.1	29.6	61.6
2006	8.3	29.0	61.7
2007	7.2	29.7	63.1
2008	7.4	29.1	63.5
2009 (first quarter)	7.9	28.6	61.7

Source: INEGI (2009) ENOE, second quarter of each year

Despite the theorists who proclaimed the end of labor, in particular waged labor, in 1993 the percentage of wage workers among the total occupied population had increased (although it stagnated throughout the 2000-2009 period at just over 60%). In contrast, despite precipitated forecasts, the percentage of the occupied population which was self-employed decreased between 1993 and 2006.

Table No 3: Percentual distribution of occupied population

Year	Waged	Self-employed
2000	63.5	23.6
2001	63.1	24.2
2002	62.6	24.4
2003	62.7	25.1
2004	62.9	24.9
2005	64.2	23.7
2006	65.3	22.8
2007	65.6	22.6
2008	66.5	22.5
2009 (first quarter)	67.1	22.5

Source: INEGI (2009) ENOE, unified series, second quarter of each year

Unionization rates, measured as percentage of the economically-active population (EAP), have had poor fortune, dropping from 13.6% in 1992 to 10% by 2002. The percentage of unionized workers in the industrial sector in relation to the total wage-earning workforce over age 14 (lowest legal age to be part of a union) suffered a severe drop, from 22.1% in 1992 to 11.6% just ten years later in 2002. The downward trend in percentage of unionized workers in total EAP was stopped during the Fox administration, but not in the industrial sector, due to the overall decadence of this sector in the economy and in employment.

Table No. 4: Rate of unionization

Year	Unionized/EAP	Unionized in industry/waged in industry (more than 14 years old)
1992	13.6	22.1
2000	9.8	15.0
2002	10.0	11.6

Source: Esquinca, M.T. (2006) “Afiliación Sindical y Premio Salarial” en E. De la Garza y C. Salas, *La Situación del Trabajo en México, 2006*. México, D.F.: UAM-IET-Plaza y Valdés.

The above is reflected in the percentage of workers covered by wage and contract reviews, which dropped slightly from 11.7% in 2000 to 9.8% of the total wage-earning workforce in 2006.

At the same time, the percentage of collective bargaining agreements controlled by CT-affiliated unions has dropped somewhat, from 85.4% in 2000 to 79.8% in 2009, offset by an increase in those in hands of independent unions (including both unions opposed to the government and so-called yellow, or company unions controlled by management).

Table No. 5: Percentage of federal collective contracts for type of unionism

Year	CT	Independents ³	Not specified
------	----	---------------------------	---------------

³ In the statistics, those identified as independent are those which simply do not belong to any CT-affiliated confederation. There are two types: left-leaning opposition organizations (*Unión Nacional de Trabajadores*, UNT, and *Frente Sindical Mexicano*), and the so-called “yellow” unions, controlled by management.

2000	85.4	11.1	3.5
2001	84.7	12.3	3.0
2002	82.2	15.3	2.5
2003	84.7	11.9	3.4
2004	80.0	19.2	0.8
2005	81.5	14.4	4.1
2006	79.8	19.1	1.1
2008	81.7	18.1	0.2
2009 (first quarter)	79.8	18.3	1.9

Source: STPS (2009) Estadísticas Laborales

Table No. 6: Collective contracts or wages reviewed, federals and locals

Year	No. of reviews	No. of workers	Percentage of waged population that review wages or contracts into a collective agreements
2000	38 611	2 924 640	11.7%
2001	37 946	2 788 999	11.2%
2002	36 871	2 790 621	11.1%
2003	37 232	2 785 103	11.0%
2004	40 237	2 916 771	11.0%

2005	44 150	2 890 565	11.1%
2006	48 887	2 714 140	9.8%
2008	52 004		
2009 (first quarter)	24180		

Source: STPS (2009) Estadísticas Laborales

In reference to average total increases in wages, between 1990 and 2008, the real minimum wage accumulated a fall of 55.6% real. About the average wage subject to federal-control of bargaining agreements, which supposedly would be the best in the country, from 1990 to 2008 felt 19.6% real, but from 2000th stabilized. In reference to mean remunerations for person in manufacturing sector, from 1990 to 2008 increased 2.2% real, but with a very sinuous trajectory.

Table No. 7: Increases in wages and total remunerations (real terms, base1992)

Year	General minimum wage (1990=100)	Wage from federal collective agreement (1990=100)	Mean remunerations in manufacturing industry (Dolls for day)
1990	100.00	100.00	25.65
1993	85.4	100.63	27.27
2000	63.9	76.55	24.6
2001	65.6	78.52	26.23
2002	65.02	79.10	26.75
2003	65.2	79.23	27.10
2004	63.8	78.82	27.2
2005	64.5	79.10	27.1
2006	63.9	79.5	27.3

2007	63.8	79.7	27.5
2008	66.6	80.4	26.2

Source: STPS (2009) Estadísticas Laborales

Beginning in 1994 —as part of the repertory of labor flexibility— the government began to promote establishment of productivity agreements which included bonuses. This strategy implied to put part of worker incomes in function of their performance and thereby avoiding fixing all income in accordance with wage scale.

The question is how much bonuses contributed to relative recovery of wages and remunerations in the 2000-2009 term. It is first necessary to investigate the breadth of coverage of such productivity agreements. Of total wage and bargaining agreement reviews in 2000, only 7.8% included bonuses or incentives, percentage which dropped to 4.6% in 2006, and 5.3% in 2008, reaching 414,210 workers in 2000 and dropping to 384,251 in 2006. Since 1994, year in which these negotiations began on a massive scale, they have gone through three stages. In the first or initial phase, numbers of productivity agreements and involved workers grew rapidly, followed by declines in both of these indicators during the Zedillo government (1994-2000) and growth with stagnation in the first four years of Fox administration in terms of number of agreements but decline in number of workers involved, and dropped from 2004.

Table No. 8: Collective bargaining that included bonuses

Year	Total		Federal		Local	
	Reviews	Workers	Reviews	Workers	Reviews	Workers
1994	2 629	1 203 071	1 505	1 126 555	1 124	76 516
1995	4 351	621 920	1 913	527 915	2 438	94 005
1996	2 870	273 655	832	216 550	2 038	57 105
1997	2 089	280 197	859	252 555	1 230	27 642
1998	2 700	314 099	1 044	282 916	1 656	31 183
1999	2699	314 788	932	274849	1767	39 939
2000	3 092	414 210	1183	365 504	1909	48 706
2001	3 308	377 631	1054	333 081	2012	40 641

2002	3 335	377 631	872	318 562	2 463	59 069
2003	3 371	395 306	897	337 646	2474	57 690
2004	3 076	420 404	1020	376 691	2056	43 713
2005	2 726	394 296	851	358 777	1887	39 050
2006	2273	384 251	775	350 982	1498	33 300
2007	2747		844	nd	1903	Nd
2008	2739		987	526 096	1752	Nd
2009(first quarter)	1250		445	345 425	805	nd

Source: STPS (2009) Estadísticas Laborales.

However, the original sin of having been induced by the government onto the majority of companies continues to cast a shadow over productivity agreements. In 2006, 52.6% of agreements included no set goal of any kind or only considered punctuality and attendance for 2009 this quantity decreased only to 47.8%.

This lack of belief among an important number companies in the benefits of the bonuses model provoked the situation that the quantity of money from the bonuses is in general very low.

Table No 9: Percent of productivity agreements without goals of productivity or only of punctuality and attendance.

Year	Percentage of total number of productivity agreements
2000	54.4
2001	53.9
2002	49.9
2003	52.0
2004	43.4
2005	52.6
2006	52.6
2007	49.5
2008	45

2009 (first quarter)	47.8
----------------------	------

Source: STPS (2009) Estadísticas Laborales

Table No. 10: Increase of wages in federal collective agreements (Percent of annual increase)

Year	Direct increase in the scale	For adjustment	Bonus for “productivity”	In Benefits	For change in the scale
1996	21	0.6	0.4	1.3	0.0
1997	19.5	0.05	1.2	2.1	0.09
1998	17.7	0.05	1.2	1.5	0.08
1999	16.5	0.03	1.0	1.6	0.1
2000	12.4	0.04	1.8	0	0.1
2001	9.1	0.05	1.6	0	0.06
2002	5.8	0.01	1.9	0	0.01
2003	4.7	0.004	2.0	0	0.004
2004	4.1	0.003	2.5	0	0.03
2005	4.4	0.0	3.4	0	0.1
2006	4.1	0.005	3.7	0	0.04

Source: STPS (2007) Estadísticas Laborales

A wage policy different from that of the previous administration appeared in the recently completed governmental term: wage increases applied directly to the wage scale were progressively smaller, while amounts paid through productivity bonuses increased starting in 2002, but increases in benefits disappeared in companies subject to productivity agreements. In other words, there appeared to be a policy directed to the minority sector reached by productivity agreements (1.5% of total waged workers in the country) toward recovery of real remunerations via productivity bonuses, although the total of wage increases applied directly through wage scale plus bonuses has stagnated since 2002, in addition to the fact that productivity bonuses are not permanent and do not affect amounts of other benefits or of pensions and retirements.

Changes toward flexibility of collective bargaining agreements in Mexico began in the decade of the 1980s. The first generation of changes was concentrated in functional

flexibility (De la Garza and Bouzas, 1998) (within the work process, multiskilled labor, internal mobility, capacity-based promotion). Regarding limitation of rigidity in the formal sector of the economy in numerical terms (company capacity to employ or lay off manpower according to ongoing production requirements), progress was made only in large-scale bargaining agreements in those clauses which added restrictions or imposed extra compensations beyond those required by Labor Law regarding indemnification in case of involuntary lay off. But fundamental elements in terms of justifiable causes for firing and corresponding indemnification, as well as procedures applying in the filing of grievances, did not change, because they are contained in the Federal Labor Law or the Federal Law of State Service Workers, both of which have not changed (De la Garza and Bouzas, 1999). The predominance of rigidity in terms of formal sector job stability is demonstrated in figures as high as 90% of the workforce with definitive contract in the manufacturing sector in 2003 (the National Employment Survey produced lower figures, reporting 71% of wage workers in manufacturing with written contract, a nevertheless very high number) and 41.7% in the total waged manpower. Regarding wage flexibility, we mentioned that the novelty in the Fox administration was promotion of greater wage flexibility in a small sector subject to productivity bonuses, consisting of increasing the importance of bonuses in comparison with annual wage scale raises, although in the whole of labor relations few workers are involved in this policy and in even fewer cases the agreements form part of an integral vision of organizational change of the company.

On the other hand, indicators of job precariousness linked to regulation of labor relations remained very high between 2000-2009. Such is the case of the percentage of workers with written contracts for undetermined time periods, which declined as percentage of total workforce from 48.8% in 2000 to 38.8% in 2009. The percentage of waged workers without benefits remained almost the same, from 39.3% in 2000 to 38.8% in 2009, while the percentage of workers laboring in micro-businesses increased from 23.7% in 2000 to 25.4% in 2009. In other words, precariousness in labor relations did not improve during the two governmental period under analysis, which maintained high levels of wage-earning population with no written contract and no health benefits.

Table No.11: Percent of waged workers with stable posts from collective agreements, without benefits and in microestablishments (less than 5 workers for establishment)

Year	With stable post for collective agreement	Without benefits	In urban microestablishments
2000	48.8	39.3	23.7
2001	49.5	38.7	24.4
2002	48.6	40.8	25.6
2003	48.2	41.2	25.7
2004	48.2	40.7	25.8
2005	41.6	40.5	26.7
2006	41.7	41.1	27.1
2007	44.5	38.0	25.1
2008	44.3	38.4	25.4
2009 (first quarter)	42.9	38.8	25.4

*second quarter of each year, unified series.

Source: ENOE (2009) INEGI

In summary, the behavior of the economy and exhaustion of the maquiladora manufacturing model translated during the Fox years into insufficient creation of formal jobs (total remunerations in the maquiladora sector represented only 67% of those corresponding to the manufacturing sector in 2006, benefits around 50%, and employment of general laborers in the maquila dropped 9.6%), this situation is already worst from October 2008..

2. The Labor Law proposal

In August 2001, early in the new government, the Ministry of Labor and Social Welfare (*Secretaría del Trabajo y Previsión Social—STPS*) called the business sector organizations and the unions to a so-called Central Decision Table to elaborate a Labor Law proposal. The UNT, initially invited to the Table, eventually resigned from said project and together with the PRD (*Partido Revolucionario Democrático*) party elaborated a different proposal. Both projects were formally presented to the House of Representatives in late 2002. Since then there have been many attempts to place the first of these up for vote in the House plenary. Diverse political incidents, unrelated to contents of the labor reform, have impeded the PAN and PRI parties, which coincide in the terms of said reform, to reach final

agreement for its approval. The STPs of actual government elaborated two preproject, one in 2008 and one at the beginning of 2009, the changes are very similar to the formal project of Fox government.

The conceptual framework elaborated by the Labor Ministry as starting point for the Central Decision Table, and which culminated in the project of the CT and the Business Coordination Board (*Consejo Coordinador Empresarial*—CCE) sponsored by the Labor Ministry, is a mix of recognition of the challenges of globalization for companies, in reference to the need to improve competitive advantages, and a hard nucleus of *Social Doctrine* of the Catholic Church in reference to work. Within this focus, the proposal argues that globalization and the technological revolution pressured establishment of New Forms of Labor Organization, and implied greater competitive demands, and the expansion of knowledge-based services and labor. From this exceedingly elemental, schematic, and virtually uncritical reading of what is occurring in global economic behaviors and Production Models in the world, the proposal moves on to conclude that the new forms of organization imply workers' right to be heard and to collaborate in solution of production needs. In other words, at that moment the proposal introduces the most schematic elements of the managerial doctrine of *Total Quality*. From there, the proposal jumps to the need for Labor Law reform, and the assumption that new participative forms of production must be established in order to be more competitive.

The proposal goes on to add that the reform should be achieved through consensus, should be inclusive, and also that the market should not decide but rather should be in conformity with the law, and the function of the law was to protect human freedom and dignity. Part of the Catholic doctrine appears in this point, which states that the human being is in his essence dignified and of free will, worthy of maximum respect, and that rights exist inherent to the person, among others the rights to work and workers' rights. In other words, it is not stated that labor law should be subject to the market, but not to the State either. Labor rights would appear to be a sort of natural rights, emanating from man's condition as divine product and having an immortal soul. As all men are equal in God's eyes, be they businessmen or laborers, work should be means of solidarity and love between said men.

The fundamental principle appears to be: equality in essence among men, who are worthy of respect and love, in particular at work.

The central principle of the divine essence of man imposes tasks on the right to guarantee that workers and owners behave in accordance with their essence. In Mexico, a

new “revolutionary” legislation would be necessary, which would follow different principles from that of 1930. This is a legislation not based on the concept of class struggle, which opposes that of equal human essence, and therefore it should deny that workers and bosses are enemies by nature; on the contrary, both are needed for the company to exist. Although the two are equals in essence, but an *economic realism* is considered, i.e. that the company needs profits to subsist, although they should not hold priority over the human person. In this sense, it is the Law and not the market that which should seek balance between the company’s *economic realism* and the inalienable rights of the human person: between the company’s need to eliminate rigidities and be more flexible, and labor rights and job stability. It would imply having flexible labor relations but without basing the competitive advantage of companies on low wages, and rather on a new labor and business culture, in a new model of company and workforce management.

In synthesis, the central normative principles are:

1. Work should be considered expression of human dignity.
2. The essential equality of all human beings.
3. Freedom to work and of association in labor relations.
4. Work as realization of the human being.
5. Labor should not be seen as merchandise.
6. The person should be above group interests.
7. The company as unit of human coexistence and life, which should be preserved.
8. Job stability.
9. Union autonomy, freedom, and democracy (direct and secret-ballot election of leaders).
10. Labor rights should protect the weakest.
11. Defense of the rights to strike and of collective bargaining agreements, and the possibility to waive rights (labor flexibility with *social responsibility*).

In this regard, we offer the following observations:

- 1) There is a clear change of concepts in terms of labor rights principles between the principles proposed for the Labor Law of the 21st century and those of the 1930 law, and also with those of neoliberal influence.

The starting point is the human person with an essence which equalizes all, in particular laborers and bosses. The 1930 law was based on the inequality, not only in terms of resources but also of interests between capital and labor. It is an idea originated in Marxism, although softened in Mexican law by the idea of Social Justice. Social justice in

the Mexican conception implied that there were rights of which the workers had been despoiled by the Porfirian dictatorship (myth of a past which in fact was no better), in such a way that it was a restitutive concept. This restitution of rights or social justice would be achieved within the frameworks of the governments of the Mexican Revolution, not through a new revolution, which had already taken place in 1910. Labor rights, including the concept of wage, would therefore not be those established by the market, nor those derived from an immutable human essence, but rather those historically constructed by the people through their struggles. The wage concept in particular was the *remunerator* of Marxist reminiscence, that is, not that established by free supply and demand of labor but that necessary to satisfy the needs of the worker and his family. For its part, the neoliberal conception implied profound revision of these principles, the concept of social justice disappeared to the degree that wages, employment, and working conditions would be those spontaneously fixed by the market, in such a way that there would be no unjust conditions in themselves but rather those fixed neutrally by the market, unless people created laws which violated supply and demand.

2). The concept to be overcome is that of class struggle. But the way to combat the idea that laborers and business owners do not share the same interests is not through the route of being simple factors of production paid in a neutral manner according to the productivity of labor and capital as in the neoliberal concept. That would be seeing labor as simple cost or price. Neutrality of interests does not emanate from the market but rather from the (divine) human essence which equalizes laborers and bosses. In this way, there would be no structural reason for the difference of interests, and if it occurs it is purely circumstantial, because one of the two did not behave in accordance with his essence (free will). According to said essence, they should love each other and the company should be a space for solidarity and concordance.

Although the neoliberal and the right-wing Catholic conceptualizations have different doctrinal roots, they in fact emerged simultaneously in the latter decades of the 19th century and shared the common enemy of Marxism. Each with its different grounds attempted to neutralize the labor relation, the neoliberals leaving it to the blind forces of the market, and the Catholics to the immutable human essence. It was and continues to be a question of teaching workers that their contradictions with capital may be resolved through the route of loving dialogue, as human beings possessors of the same essence.

3). However, for Catholics, free will also allows man to be tempted by evil; for the neoliberals, production factors may make irrational decisions. In other words, there may be alterations of the essence and of the market. The first would be justification of the existence of labor law: if persons allow themselves to be tempted and sin, labor laws in accordance with man's human essence are constructed to control temptation and sin and redirect man along the good path. Law should establish norms, so that there is no confusion between good and evil, but also sanctions, equivalent to the sinner's penitence. The important aspect is that said law reflects the concept of human essence and not that of class struggle.

4). However, labor relations must address "economic realism." In other words, that the company must obtain a profit, even more so in a context of globalization, although it must be reconciled with the concept of human essence". It is in this realist line of the company where principles of Total Quality are added, i.e., necessary labor flexibility and a new labor and management culture, all with worker participation and involvement.

These principles were ratified and formally accepted by the maximum hierarchy of the CT and of the business sector present in the Central Decision Table which elaborated the legislative proposal presented to Congress. It was unquestionably an effort not only to reform certain articles of the Labor Law, but also to change the conceptions of the labor plane in the above-mentioned sense. Later we will analyze whether this ideological project prospered.

The Federal Labor Law currently has some aspects of rigidity and others of flexibility; the flexible elements have on occasion transformed into rigidities at the level of the collective labor contracts, as part of collective bargaining traditions in Mexico. Furthermore, not all rigidity should be considered negative. There are labor rights which may contribute to fix the manpower to the job post and thereby avoid the high voluntary turnover characteristic of the export maquila which wastes accumulated knowledge and training investments. On the other hand, there are conditions which, from the point of view of protection of the environment, life and human rights, current society can not accept be flexibilized in favor of reducing costs, such as avoiding expenditures to reduce pollution, or health and safety measures in companies.

In any case, many rigidities criticized by the business sector in the current Labor Law in reality correspond to their translation in the collective bargaining agreements. The current Labor Law opens a very broad range of hiring forms, not limited to the contract for an indefinite duration, such as hiring for a given task or specified time period. Although articles 46 and 47 of the Law do not contemplate production variations as causes of contract rescission, article 439 opens the possibility to reduce personnel due to implementation of new machinery or work procedures. Regarding promotions, article 154 specifies preference to seniority, but only in conditions of equal capacity; the promotion will be from the lower category to the higher, and will correspond to the most apt and senior. Article 24 considers that the labor contract should contain the services to be provided by the worker, but this has not been an obstacle for companies to establish multiskilled worker systems and internal mobility. The wage, according to the Law (article 83), may be by project, commission, fixed price, or any other form; in other words, even hourly wages are legally possible. Finally, the Law does not contemplate union participation in decisions related to production or technological or organizational change. The fact is that flexibility in collective bargaining agreements has advanced considerably since the 1980s and the current Law has not been an important obstacle in that process.

Nevertheless, it would appear that the business strategy regarding labor-related legislative changes implies promulgation of a flexible Law of preventative character, which instills confidence in investors, primarily foreign investors, beyond the fact that the large companies have already obtained adequate conditions of flexibility.

Therefore, the legislative proposal presented by the Central Decision Table through the labor-sector congressional delegates of the PRI party to the House of Representatives, has as its primary components those elements related to labor flexibility, but also restrictions on freedom of association, hiring, and on the freedom to strike. Although in an unequal manner, the proposal covers the three dimensions of labor flexibility. Regarding numerical flexibility —ability to adjust number of workers to market conditions of the product— the proposal establishes contracts with up to 30-day trial periods during which the company acquires no responsibility regarding indemnification in case of termination, and training contracts for periods as long as three months. Regarding functional flexibility —that within the productive process— the possibility is established of discontinuous work schedules, mutually-agreed broadening of tasks, and changing contract-specified rest days, as well as flexibility of the workday, which without surpassing total weekly or monthly hours, may be

adjusted on a daily basis in function of production needs (work hour bank). In addition, performance and training are established as primary criteria for promotions. Changes in terms of wage flexibility are poorer than those regarding numerical and functional flexibility. There are no explicit commitments to share profits of productivity through bonuses. At most, the reform proposes expanding training committees to address the issue of productivity, but in this aspect the committees may only propose to management possible changes in machinery, work organization, and labor relations, while there is no specific mention of any kind regarding sharing the benefits.

The mentioned project expands and provides considerable additional detail regarding requirements for establishment of a collective bargaining agreement. Said requirements include: signatures of all union members, acts emitted by the Associations Registry to union leadership, the union's statutes in which it is specified that the company with which the contract is to be established corresponds within the union's field of action, and the list of union affiliates. An expanded list of requirements is also included in the case of the procedure for calling a strike related to establishment of collective contract: certified act of union registration, that within its statutes the union have specified that the company falls within its field of action, the signed list of all workers affiliated to the union, and official certification that said workers form part of the union. It is also established that while a legal suit is pending regarding the holder of administrative power of a collective bargaining agreement, no other similar claim may be filed until the first is resolved, and the requirement is established of secret ballot certified by the Labor Ministry in the case of the decision to call a strike.

In summary, this legislative proposal synthesizes historic demands of the business class regarding flexible reform of the Law, although it does not reach the point of proposing hourly pay, benefits in function of financial capacity of the company, or elimination of any pay in the case of strike. On the other hand, the final proposal sets aside the elimination of close shop, prohibition of union affiliation to political parties, penalization of union leaders who fail to provide union statutes and collective bargaining agreements to the workers, secret and direct ballot for union leadership elections, and a new institute for registration of contracts and unions with information open to those with legal interest. The latter three of these did appear in the second-to-last draft of the legislative proposal, but were eliminated at the moment in which the draft was delivered to the House of Representatives. In other words, the proposal provides labor flexibility to companies, imposes additional requirements

on head bargaining agreement administrators, establishment of said agreements, and strike procedures, while it does not modify the current situation for union registration.

For its part, the proposal presented by the UNT and the PRD is founded on a functionalist and institutionalist conception of industrial relations and establishes the need for a social pact between workers, the business sector, and the State, implicit in the experience of a negotiation between the telecommunications union and Telmex.³ This proposal focuses on process-related aspects regarding freedom of association, of collective contracting, and to strike. In this regard, it maintains the exclusion clause for hiring but not for separation, establishes the secret ballot and direct election of union leaders, a national registry of unions and collective bargaining agreements, and the possibility to celebrate collective bargaining agreements by branch and production chain. It creates a new institution (the National Institute of Wages, Employment and Productivity), proposes that the minimum wage be fixed by the House of Representatives, as well as profit sharing, and proposes a 40-hour workweek and one uniform national minimum wage. In the theme of productivity, as in the first project, development is limited, although it adopts the expanded concept of productivity contained in the collective bargaining agreement of the union with Telmex, assumes the formation of jointed productivity and training committees responsible to diagnose, elaborate and evaluate programs, and proposes distribution of profits accrued through increased productivity.

In synthesis, the central aspect of the legislative proposal promoted by the CT and business organizations is labor flexibility through:

- 1). 30-day trial-period contracts
- 2). Training contracts
- 3). Contracts discontinuous for indeterminate durations
- 4). Multiskilled work organization
- 5). Flexible weekly schedules
- 6). Flexible rest days
- 7). Elimination of promotions based in seniority

³ In a recent critique of the reform, researcher Graciela Bensunsan (2003) reaffirms this functionalistic vision of industrial relations and of globalization, by considering that the mentioned project is condemnable because it will not serve even Neoliberalism and globalization, because, the author assumes, functionalist and schematically, that productive efficiency and competitiveness in open economies can only be obtained with participative and democratic unions and good profit sharing. The international experience shows that this competitiveness, depending on the context, may be achieved through diverse routes, even those with low wages and with corporativism (Boyer and Frayssenet, 2000).

8). Training and productivity committees

The first three proposals refer to numerical flexibility and affect stability in the work post; the remaining five refer to functional flexibility (use of the workforce within the productive process). Regarding wage flexibility —placing wage in function of productivity and quality or performance— specific commitments are not considered in the legislative proposal

However, no one has calculated the amount of the benefits of the first three for companies, and in international labor research it is not clearly proven that maximum productivity is achieved with maximum flexibility. The insecurity of the worker who does not feel part of the company or willing to place his initiative at the real service of production or of the company, may play against this correlation (Addison and Hirsch, 1989; Clarke, 1980; Hertz, 1982; Monsley and Thompson, 1990; Metclaf, 1993; Rosenberg, 1988; Sylos Labini, 1972). It is not enough to present an abstract theorem, which normally includes assumptions which do not comply with reality, such as absence of regulatory institutions in labor matters. The relations between regulations and flexibility continue to be debated, given that in our countries a large part of the labor market is outside of legal regulations; the impact of deregulation and flexibility on growth of productivity and employment; the difference between labor market deregulation and labor process flexibility (Weller, 2000). Furthermore, although high levels of labor protection exist within legislation in Latin America, there is an enormous unstructured and barely regulated sector, and violations of labor norms are frequent (Heckman and Pagés, 2002). The OECD (1999) has noted how the importance of external (labor market) flexibility has been overvalued in comparison with internal (functional) flexibility, as well as the apparent paradox in some countries between high regulations and low unemployment. Workers who most likely can successfully defend their rights are those with collective bargaining agreements and therefore with unions. Furthermore, bargaining agreements may provide additional labor protections beyond those established by labor law.

3. Change in Union Relations

The Mexican corporativism conformed in the 1930s combined representation of workers' interests with their intermediation and subordination vis-à-vis the State and the companies. When there was representation and in the diverse forms of intermediation, in

general it did not occur through democratic forms of leadership designation and decision-making. Instead, it was an authoritative corporativism subordinated to the State.

But Mexican corporativism was also a form of extra-constitutional governance, parallel to Parliament and to citizen logic. For this governance to function, it was not enough for the State to support the monopoly of representation of the corporative unions through legal and extralegal measures, but rather it was also necessary to nourish it through a broad system of trade-offs with the labor bases in exchange for labor peace, support for governmental economic, political and social policies, and the vote for the PRI. These exchanges were stratified according to the political and gremial importance of the labor organizations. At the top were the large national industrial unions, especially of State-owned companies, followed by those of large private companies, then the state employee unions, and finally those of medium and small companies. The unorganized workers of micro-businesses, the self-employed, and those in family-based establishments were always in very different conditions. The exchanges included upward-tending wages and economic benefits until 1976, the extension of social security, and differentiated favors for workers at the work site. For the leaders, they included elected political and appointed governmental posts at different levels, trafficking of influences, and possibilities to carry out diverse legal and illegal business deals, using broad networks of connections, and especially to form part of the power elite alongside party and governmental functionaries and businessmen.

But Mexican corporativism was not only a partial, pyramidal and authoritarian form of representation of interests, form of governance and control of workers, and system of exchanges. It was also part of the Mexican version of the Keynesian circuit between Social State and Import Substitution Economic Model. Since the 1950s, the upper stratum of the working class transformed into an important piece to reconcile manufacturing supply directed to the internal market and demand for industrial consumer products (De la Garza, 1988). In other words, the Keynesian circuit between supply and demand attempted in part to close through induction of the latter by pushing upward the wages of the topmost sector of laborers, as well as through State expenditure in productive investment, running expenses of public administration and social investment.

We have addressed the crisis of the Authoritarian Social State in detail at other moments (De la Garza, 1988) and have also discussed the crisis of Mexican corporativism (De la Garza, 1994). We consider two factors to have contributed to the structural crisis of Mexican corporativism, which implies its weakening but to date not its substitution by any

other union form, since the 1980s and absolutely clearly now. On one hand, the transformation of the State toward neoliberalism (De la Garza, 2000). The Neoliberal State no longer attempts to induce growth of aggregated demand through its expenditure or by pushing wages upward, but rather this regimen leaves them to the unfettered forces of the market. By ceasing to induce demand, the Neoliberal State affected some of the primary forms of exchanges allowing reproduction of corporativism: the State is no longer the means to obtain, as part of broad political negotiations, wage increases and improved benefits, and wage is handled as adjustment variable to control inflation; decadence of social security and underground privatization of health services and pensions, as well as the targeting of social expenditure toward the extreme poverty which does not generally touch wage workers, especially of the politically important gremial sectors; the direct privatizations which, except in the case of Telmex, have resulted in personnel cuts, reduced benefits and prerogatives for the unions and unilateral flexibility of collective bargaining labor agreements. In other words, for the corporative relation, neoliberalism has meant a crisis of exchanges, but in general there have been no large irruptions of its bases.

In the year 2000, defeat of the PRI and arrival to power of an anti-corporative party led many analysts to assume that corporative relations between unions and the State would suffer changes. Nevertheless, the CTM and the UNT both raced to congratulate the winning candidate and open themselves to dialogue with him. The CTM promised the new government to advance the Agreement for a New Labor Culture with order, peace and harmony. The oil workers union also recognized the triumph and requested respect for labor relations in Pemex and assurance that the company would not be privatized. The miners union also recognized the PAN win and called for respect for union autonomy, and the FSTSE did the same. The UNT not only congratulated the winning candidate but also called for the end of corporativism and brandished its proposals to negotiate productivity and alliance with companies. Behind this panorama were the ideas extolled by the new President during his campaign: eliminate corporativism, favor union democracy, no to populism and no to neoliberalism, improve labor relations, respect for workers rights, improve labor training, and share the fruits of productivity.

Various alternatives opened for the Fox government. First: favor union freedom as postulated in campaign discourse, for which Fox could undertake a campaign against fictitious contracts and the state supports for corporativism, possibly leading to democratic reform of the Labor Law. Second: a more moderated approach of the first but pointing

toward respect for the existing legal framework with honest functionaries in the Conciliation Boards and in the Associations Registry. Third: undertake no major changes, considering PAN's experience in states such as Baja California Norte, where PAN governors have entered into a *modus vivendi* with official union centrals, without favoring independent or yellow unions, playing off the centrals and using legal and extralegal strings to conform a sort of non-partisan corporative restoration, whose only interest is to maximize the satisfaction of investors.

For their part, various options also opened for the CT unions. The first was to continue to cling to the coattails of the PRI, supporting its electoral and parliamentary campaigns, awaiting new elections. The second, enter into negotiations with the new government. For the UNT, it appeared that the only option was to continue its ongoing strategy, presenting itself as the foundation of a new unionism, responsible both to the economy and to companies, interested in productivity, democratic, and eager to offer proposals. This strategy was moved on one side by becoming a poll of attraction of CT unions, and on the other, the center of a new social pact based on productivity, legality, and democracy.

For their part, the powerful businessmen who control most of the management-side organizations could choose to undertake a criticism of corporativism for its corruption, scarce representativity, and low interest in productivity, or their could pressure the government to preserve the status quo, except for modifications to flexibility at the level of the Labor Law.

Nine years later, we may conclude that union relations, the majority of which remain in the hands of corporative unions, have had two important changes: partial restoration of corporative relations between unions and the State during the first three years; the division of one of the two large corporative union organizations, the FSTSE and in the Fox government also the CT.

In the first three years of PAN government, the UNT crossed over to the opposition, after separating itself from the CT-CCE Labor Law proposal and presenting its own with the PRD. For its part, the Mexican Electricians Union (*Sindicato Mexicano de Electricistas—SME*) consolidated another union and social focal point in the Mexican Union Front (*Frente Sindical Mexicano—FSM*). But neither of the two independent focal points was able to prosper to any important degree in these three years. The UNT, snubbed by the government

as interlocutor, gained practically nothing in affiliate numbers. The FSM was absorbed in declarative struggles sharply focused on defense of the source of jobs of electrical workers. Meanwhile, the CT established good relations with the federal government, supporting the dialogue between production factors promoted by the Labor Ministry, the Labor Law proposal, the annual wage increases akin to PRI-government times, and labor peace.

During the PAN administrations, labor strikes were not a frequent recourse to resolve worker-management conflicts. Between the early 1990s and the first years of the present century, the frequency of strikes fell to almost a third and stabilized around that level. Something similar occurred regarding collective conflicts which did not end in strikes. In contrast, individual grievances increased 45.6% during 2001-2008. These figures illustrate that business sector concerns to place legal obstacles to strikes through the above-mentioned legislative proposal, do not respond to current strike activity, but rather have a preventative character in the light of predominance in Mexico of precarious jobs. The past six years were not characterized by increased collective labor conflict levels; the corporative system demonstrated its efficiency in that regard.

Table No. 14: Total number of strikes and collective conflicts different to strikes

Year	Total Strikes	Federal collective conflicts	Local collective conflicts	Federal strikes
1993	629	940	2210	
2000	173	315	1070	26
2001	254	344	1368	35
2002	258	278	1249	45
2003	246	330	1363	44
2004	243	307	1331	38
2005	274	314	1157	50

2006	241	384	1521	55
2007	299	412	1631	28
2008	nd	355	nd	21
2009 (jan-july)	nd	117	nd	10

Source: STPS (2009) Estadísticas Laborales.

Note: Federal jurisdiction corresponds to large enterprises with establishments in more than one state

Corporativism in Mexico demonstrated with its restoration during the recently administration that more than *party* it is a *State* system, and although weakened, the presidency of the republic remains at the head of the Mexican State. To this effect, the union leaderships entered into negotiations not unlike those of the PRI era, exchanging labor peace for State protections of the monopoly of corporative representation, eradicating alternative leaderships or organizations. In addition, the network of corporative relations does not imply only those of the top elite, but also middle and lower levels, i.e., in the levels of federative entities, industrial branches, or even companies. These networks of complicity, in which the central axis is also labor peace and control in exchange for monopoly of representation, plus privileges for the leaders, did not change in the PAN administration. Before, in states such as Baja California and Chihuahua, it had been demonstrated that coexistence and agreements between PRI unions and state PAN governments was possible, given that in the labor plane they defend similar interests. This dense network of commitments, confidentialities, loyalties and interests is what keeps corporativism alive. It is for this reason that we have spoken of a restoration of the corporative union relation *sans*-PRI from the first three years of the Fox government to present.

But the corporative restoration, in which greater political dexterity could have achieved the participation of the UNT (at least that was the intention behind its invitation to the Central Decision Table), suffered a first frustration when the UNT distanced itself from the pact on labor policy with the government and switched to the opposition, aligning closer to the FSM. But the situation became more complicated, first due to a conflict between leaders which led to the fracture of the FSTSE and formation of the Democratic Federation of Public Servants Unions (*Federación Democrática de Sindicatos de Servidores Públicos*), which with the presence of the National Union of Education Workers (*Sindicato Nacional de Trabajadores de la Educación*), which now groups the majority of bureaucrats, left the FSTSE as minority federation. In second term, the split of CT leadership regarding election

of its president from the CROC, CROM, COR and other national unions. After the Fox government this conflict seemed to end. Add to that the Fox and Calderón administrations conflict with leadership of the metallurgic miners union, with the precedent of that union's criticisms of the Labor Law proposal and the support to CT dissidents, and which exploded around the *Pasta de Conchos* mining accident, in which the union leader imputed responsibility for the disaster on the Labor Ministry and to the company Minera México. As we know, the clumsy handling of the political union problem led to its escalation to other mines, in particular the *Las Truchas* iron mine in Lázaro Cárdenas, with one democratized union section, which carried out a successful extra-legal fight and which now appears as the center of resistance in the miners union (Miners Union have made 33 strikes during PAN administrations). This process of de-legitimization of labor and union policy of the PAN governments, plus the electoral crossroads at which PAN and PRD demonstrated equivalent forces in 2006 plus the decline of PAN in elections of 2009, and the ineptitude of political operators ignorant of union traditions and cultures, have united, although perhaps momentarily, forces previously unthinkable to join: the FSM, always reticent to joint actions with the corporatives; the UNT, distanced from the corporatives and in relations although not of absolute confidence with the FSM; the Coalition of National Unions and Confederations (*Coalición de Sindicatos Nacionales y Confederaciones*) of the CT, dissidents of the CT; and the Democratic Federation of Public Servants Unions, split from the FSTSE. Nothing guarantees the continuity of those coalitions, but it does symbolize two failures of the PAN regimens in its union project: first, the illusion of converting corporative unionism to the social doctrine of the Catholic Church. Although union leaders initially participating in the Central Decision Table, including those of the UNT, signed adherence to the new principles which supposedly would be a guide future labor relations, they were principles far removed from longstanding union traditions and practices in Mexico, resulting in nothing more than another forgotten document. Second, the corporative restoration with problems, given the political ineptitude of the regimen. Remaining within this flimsy pact are the CTM and the frail FITSE. Regarding the other axis of the pact, protection of the monopoly of representation, the government itself has been careful to place it in question by denying recognition of the miners' leadership; with its wavering regarding the new bureaucratic federation; with imposition of the CT leadership, and finally, in the last breath of a dying regimen (Fox), attempting to sponsor a new central, the Mexican Union Alliance (*Alianza Sindical Mexicana*) with yellow and sweetheart unions and a splintered section of

the CROC, and also a new confederation, the Mexican Union Confederation (*Confederación Mexicana Sindical*), formed by yellow unions, which in the future would introduce a new area of conflict with traditional corporative unions and the independent unions.

The divisions of union corporativism are nothing to be taken lightly, as we have seen, but they do not represent rebellion of the bases against undesirable leaderships, but rather a rebellion of the union elite against a government incapable of recognizing the unwritten rules so jealously forged by the PRI governments. Nor has it been a governmental attempt to end corporativism. In fact, the government has been left with the worst, that of the CTM and FSTSE. Nevertheless, the governmental escalation, de-legitimized in Pasta de Conchos and in Las Truchas, begins to transform the situation into rebellion of the bases, and that is the real danger, not that of the leaders, for the Mexican corporative system.

Initials

CCE: *Consejo Coordinador Empresarial*, Business Coordination Board, elite organization of top business organizations in Mexico.

COR: *Confederación de Obreros Revolucionarios*, Confederation of Revolutionary Laborers, third corporative confederation.

CROC: *Confederación Revolucionaria de Obreros y Campesinos*, Revolutionary Confederation of Laborers and Farmers, second corporative confederation.

CROM: *Confederación Revolucionaria de Obreros Mexicanos*, Revolutionary Confederation of Mexican Laborers, oldest corporative central, third in size.

CT: *Congreso del Trabajo*, Labor Congress, the elite organization of Mexican corporative unionism. Its two primary organizations are CTM and FSTSE, and it also includes other confederations such as CROC, CROM, COR and national unions of different industries such as the metallurgic miners union.

CTM: *Confederación de Trabajadores de México*, Confederation of Workers of Mexico, primary corporative central.

ENE: *Encuesta Nacional de Empleo*, National Employment Survey, carried out by the National Institute of Statistics, Geography and Information (*Instituto Nacional de Estadística, Geografía e Informática*—INEGI).

ENOE: *Encuesta Nacional de Ocupación y Empleo*, National Occupation and Employment Survey, carried by the National Institute of Statistics, Geography and Information (INEGI)

FSM: *Frente Sindical Mexicano*, Mexican Union Front, front of independent unions and social movements headed by the SME.

FSTSE: *Federación de Sindicatos de Trabajadores al Servicio del Estado*, Federation of Unions of Workers at the Service of the State, until two years ago this Federation united all unionized workers employed by State bureaucracy. Member of the CT.

IMSS: *Instituto Mexicano del Seguro Social*, Mexican Social Security Institute, in which all public and private sector workers should be affiliated.

ISSSTE: *Instituto de Seguridad Social al Servicio de los Trabajadores del Estado*, Institute of Social Security at the Service of State Workers, to which all federal employees should be affiliated.

SME: *Sindicato Mexicano de Electricistas*, Mexican Electricians Union, union of electrical energy sector workers of the central region of the country, with a long democratic tradition.

STPS: *Secretaría del Trabajo y Previsión Social*, Ministry of Labor and Social Welfare.

UNT: *Unión Nacional de Trabajadores*, National Workers Union, created in 1997 with dissidents from the CT and independent unions.

Bibliography

Addison, J.T. y B.T. Hirsch (1989) "Union Effects on Productivity, Profits and Growth", *Journal of Labor Economics*, vol 7, No. 1, pp. 72-107

Bensusan, G. (2003) "Alternancia Política y Continuidad Laboral: limitaciones de la propuesta del CCE/T" en Varios autores *Reforma Laboral: análisis crítico del proyecto Abascal de reforma de la Ley federal del Trabajo*. México, D.F.: UNAM-UNT-FAT.

Boyer, R. y M. Freyssenet (2000) *Los Modelos Productivos*. Buenos Aires: Lumen-Humanitas.

Clark, K. (1980) "Unionization and Productivity", *The Quarterly Journal of Economics*, Diciembre.

De la Garza, E. (1988) *Ascenso y Crisis del estado Social Autoritario*. México, D.F.: El Colegio de México.

De la Garza, E. (1994) "El Corporativismo Teoría y Transformación", *Iztapalapa*, Año 14, No. 34, Julio-dic.

De la Garza, E. (2000)(coord..) *Tratado Latinoamericano de Sociología del Trabajo*. México, D.F.: Fondo de Cultura Económica.

De la Garza, E. (2006) “Los Límites de la Reestructuración Productiva en México”, ponencia presentada en el encuentro binacional México-Brasil: Balance Laboral de dos Gobiernos, UAMI, México, D.F., 17 de Abril (<http://docencia.izt.uam.mx/egt>)

De la Garza, E. y A. Bouzas (1998) Contratación Colectiva y Flexibilidad del Trabajo. México, D.F.: IIEc-UNAM

De la Garza, E. y A. Bouzas (1999) Relaciones Laborales en México: México, D.F.: IIEC-Plaza y Valdés.

Heckman, J. y C. Pagés (2001) “Introduction”, en Law and Employment: lessons for Latin America and Caribbean. Washington: University of Chicago Press.

Hortz, B. (1982) “Productivity Differences and Industrial Relations Structure”, Labor and Society, No. 7, pp. 333-54.

Marsley, D. y M. Thompson (1990) “Flexibility Agreements and their Significance in the Increase in Productivity in British Manufacturing since 1980”, Employment and Society, V. 5, No. 1, Marzo, pp. 17-35.

Metclaf, D. (1992) “Industrial relations and Economic Performance”, British Journal of Industrial Relations, V. 31, No. 2, Junio.

OCDE (1999) Employment Outlook. Paris: OCDE.

Rosenberg, R. (1988) “Participation and Productivity an Empirical Study”, Industrial and Labor Relations Review.

Sylos Labini, P. (1972) Trade Unions, Inflation and Productivity. London: Saxon House/Lexinton Books.

Weller, J. (2000) Economic Reforms and Employment. Santiago: CEPAL.