

MEXICO

DAYS OF ACTION

18-24 FEBRUARY 2013

BACKGROUND
DOCUMENT



BWM
Building and Wood
Workers' International
www.bwm.org



iaea



Public Services International
Internationale des Services Publics
Internacional de Servicios Públicos
Internationale der Öffentlichen Dienste
International Public Service Organisation for Offentliga Tjänster
国际公共事务



Background Document

MEXICO DAYS OF ACTION 18 to 24 February 2013

This February unions around the world call on the Mexican government to:

- **Provide justice for the families of the 65 miners killed at Pasta de Conchos on 19 February 2006;**
- **End the use of employer-dominated protection contracts, which deny workers the right to democratic representation and collective bargaining;**
- **Repeal the labour law enacted on 1 December 2012 that encourages dismissal of union activists, increases subcontracting, and leads to the massive expansion of precarious employment; and**
- **Reinstate unlawfully fired union activists (SME, PKC, Vidriera de Potosi/Grupo Modelo, Honda Calzado Sandak/Bata) and allow free and fair elections (PKC, Excellon, Honda, Atento).**

JUSTICE FOR THE PASTA DE CONCHOS MINE DISASTER

65 mine workers were killed in an explosion at Grupo Mexico's Pasta de Conchos mine on 19 February 2006. The bodies of 63 workers have never been recovered, the families have received inadequate or no compensation and those responsible for the incident have never been investigated or charged by the authorities.

A special committee of the International Labour Organization (ILO), in a report issued in April 2010, concluded that "the Government of Mexico did not do all that was reasonably expected of it to avoid or minimize the effects of the accident which had such devastating effects with the loss of life of as many as 65 miners."

The widows and families of the 65 mine workers that died are calling for:

- **Access to the mine to enable a Christian burial of the 63 miners that remain underground.**
- **Compensation to the families of the deceased, which should include:**
 - The wages of each worker until they receive a Christian burial
 - Full scholarships for the education of orphaned children, not dependent on grade averages
- **An investigation into the causes that led to the explosion and the punishment of those responsible for the killings and into the authorities who stopped the rescue effort after only 5 days.**

END THE USE OF PROTECTION CONTRACTS

More than 90 per cent of registered trade union agreements in Mexico are "protection contracts", which are bogus collective agreements signed between employers and employer-dominated company unions for the purpose of blocking democratic representation of workers and collective bargaining.

Protection contracts keep pay and benefits low, restrict workers' rights and ensure labour relations that are advantageous to the company.

The widespread use of protection contracts and their violation of fundamental union rights was raised by IndustriALL, then International Metalworkers' Federation, in complaint no. 2694 submitted to the ILO Committee on Freedom of Association in 2009.

In June 2012, the ILO called on Mexico to investigate and report back to the Committee regarding:

- “(1) the questions relating to the trade union security clauses, “exclusion clauses”, which were declared unconstitutional by the Supreme Court and which may give rise to the kind of situations contemplated in the complaint;
- (2) questions relating to the minimum representativeness of trade unions in order to bargain collectively; and
- (3) the alleged lack of impartiality of the conciliation and arbitration boards (JCAs) and the allegedly excessive length of their proceedings.”

The Committee “firmly expects that a dialogue will take place with the most representative national workers' and employers' organizations, as well as the six organizations that are complainants in this case or that have supported it,” stated the Committee's recommendations adding that the Committee “trusts that legislative and other measures will be taken in the near future to strengthen protection against anti-trade union practices in breach of collective bargaining principles.”

Instead of following the ILO Recommendations for social dialogue, the Mexican government has intensified its crackdown on independent unions and freedom of association.

The revised labour law that came into force on 1 December 2012 fail to address the problem of protection contracts. Even worse, the new law requires unions make the names of all their members public when registering with labour authorities, exposing those workers to dismissal and reprisals and stifling the formation of democratic and independent trade unions.

REPEAL LABOUR LAW INTRODUCED ON 1 DECEMBER 2012

On 1 December 2012 the Mexican government introduced a new Federal Labour Law that rolls back protections and impoverish workers even further. Far from encouraging job creation or stimulating the internal market, this law will put existing jobs in jeopardy and promote precarious work.

Since introduced, injunctions representing millions of union and non-union workers have been filed against the Federal Labour Law on the grounds that the law violates Article 123 of the Constitution, which establishes the principle of job security.

The reform erodes workers' individual rights, which in turn has a negative impact on their ability to join and form a union, bargain collectively and strike.

WHAT IS NEW IN THE LABOUR LAW

- **The new law allows for subcontracting without creating a regulatory mechanism to ensure that companies that subcontract work are held responsible for conditions in their production chains.**
- **Workers can be hired on individual contracts, without job security on six-month probationary or training contracts and fired without just cause or any cost to the employer.**
- **Workers can now be hired by the hour, not by day as was the case previously.**
- **The law now allows productivity and aptitude, not seniority, to be determinant in assessing a worker's suitability for a new position.**
- **The reasons for termination of employment are expanded and the requirement to give written notice to the worker for discharge is eliminated.**
- **Back pay in cases of illegal termination is capped at 12 months.**
- **The law removes the provision for collective contracts to be extended once it expires and until a new agreement is reached.**
- **Collective contracts can be replaced by individual contracts, where an employer can unilaterally determine conditions.**
- **Places a two-year limit on the right to strike, after which time the strike is no longer recognized and arbitration is imposed.**

THE IMPACT ON WORKERS

- **The law will make it much easier to outsource work and use agency labour, resulting in job insecurity, lower pay and a massive increase in precarious work.**
- **Any worker on a short-term contract who demands their rights or occupational health and safety will risk not having their contract renewed.**
- **It will be more difficult to join a union and bargain collectively for fear of losing employment.**
- **The ability to subcontract workers paid by the hour gives employers an incentive to fire permanent employees.**
- **At Mexico's current minimum wage of about 60 pesos per day, an hourly rate will be 7.5 pesos, less than US\$ 0.60.**
- **Although in many cases it was already the case in practice, Mexican workers have now lost the legal right to:**
 - Being hired by the day, officially of 8 hours length
 - Permanent and direct employment
 - Back pay for the time out of work, if unjustly fired
 - Severance pay based on length of service when hired on certain types of contract
 - Profit sharing
- **It enables employers to avoid their responsibilities to pay decent wages, taxes and benefits, creating increased social instability.**
- **Individual contracts and subcontracting will result in different conditions and benefits at the same workplace, eliminating the principle of equality and non-discrimination.**
- **Makes it increasingly difficult for workers to join unions and bargain collectively to improve wages and working conditions.**
- **It will be harder to legally exercise the right to strike given that multiple employers (subcontractors) will be present in a single workplace.**
- **In the event of a strike the dispute and all benefits accrued will not be recognized after 2 years.**

See: <http://www.industriall-union.org/disastrous-labour-reform-passed-in-mexico>

See the 364th report of the Committee on Freedom of Association here (English, Spanish, French):

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_183430.pdf

See the IndustriALL (formerly International Metalworkers' Federation) complaint to the ILO here:

<http://www.industriall-union.org/archive/imf/imf-lodges-unprecedented-ilo-complaint>

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