

A Report on DHL's Labour Practices
in Panama, Colombia and Chile

BREAKING

DHL'S FAILURE TO ABIDE BY INTERNATIONAL STANDARDS

THE CODE

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EXECUTIVE SUMMARY

Trade unions in the three countries investigated in this report operate in an unwelcoming, even hostile, environment. Their governments have, over time, modified or created legal frameworks based on economic models that typically require flexible labour markets, incentives for foreign direct investment, and a reduced state apparatus. It is also a matter of record that labour organisations (and their political partners) have often experienced violent political repression in the past. Together, these factors have helped create an environment in which workers have to struggle to build and sustain union organisations.

All three countries covered by this report have been found to infringe workers' rights: Colombia has repeatedly been condemned by the International Labour Organization (ILO) for its disregard of rights; Chile's restrictive labour system was founded by a notoriously repressive regime; Panama has recently featured on the ILO 'blacklist'.

In this context any transnational company genuinely concerned with respecting international conventions, including the UN Guiding Principles on Business and Human Rights, would have to go above and beyond what is required of it by local laws if it were to protect labour rights and respect ILO conventions on freedom of association.

This investigation has revealed that in Panama, Colombia and Chile, DHL has done the opposite. Instead of upholding labour rights it has unmistakably created a poor record in labour relations, while its working conditions and pay are only marginally better than average, if at all.

In all three countries, management and supervisors have been found to use underhand and potentially illegal methods to prevent unionisation, and where a union exists, to undermine and sabotage its functioning. These practices follow a pattern of severe repression at the stage of discovery of a union, followed later by more subtle anti-union tactics.

It appears clear that these deliberate anti-union strategies must be promoted or approved at the highest levels of the company.

In all three countries management denies an anti-union bias, but the evidence proves otherwise. There is an evident management perception that trade unions and a successful company are incompatible, or that unions exist to undermine and attack the company. There is also a perception that it is 'problem' or 'bad' workers who join unions, when the reverse is manifestly true.

When the company is faced with having to negotiate with unions it tends to do so while simultaneously seeking ways to undermine the negotiations and weaken what it clearly perceives to be its 'enemy'.

In all three case studies workers describe multiple violations of local labour law, as well as of international labour conventions, that fly in the face of DHL's Code of Conduct. That these occur in all three countries suggests a cultural problem that extends to the top of DHL itself.

Couriers appear to have the worst working conditions in all three countries, and it appears that DHL is particularly averse to the unionisation of this part of its logistics operation.

Workers also reported contradictory pressures to drive responsibly and yet to keep to extremely tight delivery schedules, as well as lack of support when accidents or forced landings occurred – they were often expected to meet the initial costs from their own pockets.

In Panama workers identified a widespread culture of 'clientelism' – a corrupt form of patronage and favouritism – which appears to be designed to suppress or control workers. It is facilitated by local management culture and the presence of entrenched managers who stand accused of running their own side-businesses using DHL infrastructure and materials. Even in Chile and Colombia, where outright clientelism is less of a problem, workers still complained of favouritism by supervisors and management.

In all three countries interviewees highlighted a systematic lack of transparency regarding wages and salary structures.

Clientelism and the ability of managers to use a wage system heavily made up of supervisor-decided bonuses allows them to attempt to control workers, and creates a system of management invulnerability that has contributed to corruption and illegal practices.

In Panama workers alleged that a regional manager who took an interest in working conditions was forced out by other managers who were potentially benefitting from corrupt practices. There are also reports from all three countries of problems between Human Resources managers who behave responsibly and other management, who don't.

Workers in Chile and Colombia stated that external surveys that placed the company high on various employers' tables were inaccurate, since DHL management selected the workers interviewed for the surveys, generally from among relatively new recruits with little to complain about. They also suspected that management promised these workers bonuses if they spoke well of the company.

In all three countries workers displayed unanimous and total cynicism towards DHL's Employee Opinion Survey (EOS) and other forms of communication with management. The surveys are seen as a mere formality, as subject to manipulation by management, in which promises of anonymity cannot be trusted. 'Skip level' meetings (where they can communicate directly with a level of management above their immediate one) are also seen as a waste of time that risk ruining relationships with direct supervisors, who are in many cases in control of bonuses, shifts, the provision of time off and suchlike – which directly and seriously impact upon workers' income and quality of life. Therefore workers are generally careful to abstain from airing their complaints through these mechanisms. They were further discredited, in the interviewees' opinion, by management

attempting to influence workers in pre-meetings before skip level meetings, in some cases suddenly providing free food for this purpose. They reported that management was careful to select the workers who met with Deutsche Post DHL's Chief Executive Officer (CEO) Frank Appel in 2014.

Workers in all three countries complained that DHL's internal mechanisms for complaints and comments do not work. Observations from Panama and Colombia indicate that it is only by going around these mechanisms through unofficial channels that any changes have been achieved. In all three countries some improvements have actually been made, but they have all been achieved through trade union activism, not the company's claimed mechanisms for consultation or improvement.

DHL management in all three countries takes advantage of weak local labour laws. In Chile these were authored by the former military dictatorship. In Panama and Colombia DHL is also able to take advantage of weak state institutions and the lack of political will to seriously defend labour rights. The result is a company that does the bare minimum to provide decent working conditions, and seeks to avoid any contact with the trade unions representing workers, knowing that there will be no punishment for such an attitude.

In Panama and Colombia Labour Inspectorates are weak, undermanned and underfunded, and there is a widespread culture of corruption. In Chile, as mentioned, the Pinochet-era labour laws are such that the company has little need to overstep the law in order to prevent unions from organising properly – yet even here it is accused of illegal phone tapping, intimidation and outright hostility to union leaders.

In all three countries workers described a sustained campaign by DHL to convince its workers that they are working for an enterprise that looks after them and provides the best pay and conditions. The truth is different. For example, when the DHL No.1 trade union in Chile forced DHL to carry out a survey of wages across the logistics sector, it was found that DHL's wages were below, not above, average for the sector. One union leader in Panama described DHL's internal propaganda efforts as being "cult-like". The company also stands accused of cold-bloodedly selecting workers to be interviewed for national business surveys, and of paying off the workers involved in order to ensure high scores. Such sleights of hand allow the company to portray itself more favourably, to exaggerate positives and hide the multiple negatives.

DHL's faith in the effectiveness of its Code of Conduct and the accuracy of its internal communication mechanisms in defending workers' rights is utterly at odds with the experiences of its own workers. Its mechanisms have totally failed to create positive changes for workers in any of the three countries. As Chilean lawyer Jorge Lafourcade stated: "I have never seen an ethics code or other internal regulation have even the most minimal value for workers' rights."

Just as with the previous investigations into DHL's labour practices in India and Turkey, the multiple, frequent and institutional anti-union practices described in this report are difficult to interpret as anything but the result of an anti-union policy originating from the heart of the company in Germany, in direct contradiction of its Code of Conduct, of international labour conventions, and of all widely accepted best practice.

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INTRODUCTION

For years worrying allegations have circulated of anti-union activities, dirty tricks and intimidation at and around DHL facilities in Latin America. This research report was commissioned to investigate the situation.

This report is based on documents and a series of interviews conducted in 2015 with unionised and non-unionised workers, trade union officials and labour lawyers in Panama, Chile and Colombia. Overall, 36 DHL employees, unionised and non-unionised, were interviewed face-to-face, along with 9 trade union leaders and labour lawyers. The interviews consisted of questions relating to specific instances of DHL-trade union interaction in each country, as well as more general questions on working conditions, and on individual and collective experiences of DHL's attitude towards trade unions and towards any internal criticism. Interviewees were also asked about their experiences of DHL's internal communication mechanisms, such as the Employee Opinion Survey. Labour lawyers and trade union leaders were asked about their specific experiences of negotiating with DHL, but also about the general context of labour-employer relations in their country, the attitude of government and state institutions towards trade unions, and the pattern of behaviour of transnational corporations in their country.

Please note that throughout this report some DHL employees' names have been changed to ensure protection from potential reprisals.

"OUR CODE OF CONDUCT EXPLICITLY ADDRESSES INDUSTRIAL RELATIONS AND HUMAN RIGHTS IN ACCORDANCE WITH THE INTERNATIONAL STANDARDS AND PRINCIPLES THAT GOVERN THESE ISSUES"

DHL Corporate Responsibility Report 2014

"DEUTSCHE POST DHL IS GUIDED BY THE PRINCIPLES OF THE UNITED NATIONS GLOBAL COMPACT. WE RESPECT THE PRINCIPLES OF THE 1998 INTERNATIONAL LABOUR ORGANIZATION 'DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK' IN ACCORDANCE WITH NATIONAL LAW AND PRACTICE"

Deutsche Post DHL Code of Conduct

"CORPORATE SUSTAINABILITY STARTS WITH A COMPANY'S VALUE SYSTEM AND A PRINCIPLED APPROACH TO DOING BUSINESS. THIS MEANS OPERATING IN WAYS THAT, AT A MINIMUM, MEET FUNDAMENTAL RESPONSIBILITIES IN THE AREAS OF HUMAN RIGHTS, LABOUR, ENVIRONMENT AND ANTI-CORRUPTION. RESPONSIBLE BUSINESSES ENACT THE SAME VALUES AND PRINCIPLES WHEREVER THEY HAVE A PRESENCE"

United Nations Global Compact (Emphasis added)

"WHEN FRANKAPPEL SAYS THE CODE OF CONDUCT IS BINDING THAT'S A LIE, HERE NO ONE HAS EVER PAID ATTENTION TO THE CODE OF CONDUCT"

Chilean DHL trade union leader

"THEY ALWAYS TRY TO MAKE US BELIEVE THAT IF YOU'RE IN DHL YOU'RE IN THE BEST COMPANY ... THEY TRY TO CONVINCEN US THAT WE'LL NOT BE BETTER OFF ANYWHERE ELSE, BUT WE OPERATORS KNOW THAT THIS ISN'T SO"

DHL worker, Chile

Labour and Political Context

Chile has a working age population of 8 million. Half of all workers are employed in small and medium enterprises. According to government figures the current average monthly income is 473,000 Chilean pesos – however, the same study revealed that 80% of Chileans actually earn less than this. A more accurate figure, once the country's very highest earners is removed, is 380,000 pesos (about US\$582, €494). Reflecting the legacy of the former military regime, trade union density (membership) is 15.3% (OECD, 2012).

Chile's Labour Code dates from 1979 and the Pinochet government. Its main characteristic, according to labour lawyer Jorge Lafourcade, is that it "atomises all aspects of collective rights", allowing a group of workers to attempt to negotiate collectively, instead of as a trade union; the system of labour negotiation is highly regulated and was created in order to make it extremely difficult for workers to negotiate effectively. It does not allow the unionisation of the public sector, or sectoral or national labour negotiations. The result is a fractured form of workplace organisation whereby enterprises can have several separate unions that are usually unable to take any combined action.

The notorious Article 161 of the Labour Code means that a company can dismiss workers if it is perceived to be 'in the needs of the company'. This gives companies carte blanche to terminate staff. According to Jorge Lafourcade, it is often used by companies to fire workers for joining a union, even though it is likely to then be difficult to prove that this was the real reason behind the dismissal.

It is also very difficult for workers to vote to strike. Companies can legally replace striking workers, seriously weakening the effect of legitimate industrial action. While striking workers cannot in theory be fired, this legal protection actually only lasts for 30 days after the strike. So workers involved in strikes are often fired a month after the industrial action has ended. The overall effect of these measures is to severely limit the right to strike – in violation of ILO conventions.

Legal restrictions and limitations on workers' rights are exacerbated by a pro-business bias within the judiciary and other institutions. While recent jurisprudence has been rather more positive, the overall legal framework remains anti-worker and pro-business. Nor does the Chilean state have a strong set of institutional oversight mechanisms that would enable the enforcement of labour laws. Although the current government is in the process of negotiating reforms to the Labour Code, in the 25 years since the end of the military dictatorship it has not been significantly reformed, nor has there been much change in the attitude of business or law enforcement towards trade unions.

As Arturo Martinez from Chile's CUT (Central Unitaria de Trabajadores de Chile) trade union confederation described it, this framework, in addition to low corporate taxes, creates a "business paradise", with many transnational corporations working in Chile to take advantage of this situation. Chile's police often take an anti-union stance during strikes and carry out arrests for given reasons such as 'noise' or 'public nuisance'. Trade unions are subsequently difficult to establish and even harder to maintain.

The effect on workers is chronic low wages, and poor working conditions, occasionally leading to such desperate reactions as the self-immolation in his workplace of Marco Antonio Cuadra, a trade union leader, in June 2014, in protest at the treatment of trade unions.

DHL Express and the Sindicato Numero 1 DHL Express

In 2010 DHL took over the operations of Excel in Chile, absorbing its workers and an inactive union that had existed since 2007. In August-September 2010 the union leadership was re-elected and began the process of legalising the union, recruiting more members, opening a bank account and hiring a lawyer. The establishment, recruitment and organisation phase of the trade union that became Sindicato Numero 1 DHL Express was extremely difficult, with several early members being dismissed by the company, and workers reporting that DHL offered a variety of incentives to leave the union in those early days.

In 2010 the union accepted some minor improvements to working conditions and the first collective bargaining agreement (CBA) was signed with DHL. During the negotiations DHL kept claiming that its workers were well paid in comparison with the rest of the logistics sector. As a result the union insisted that the company carry out a survey of the wages market in the sector. This study then revealed that DHL workers were not in fact well paid in comparison with the sector.

In early 2013, as is stipulated under Chilean law, the union began a process of consultation with its members (now up to 356 from 121) on the ways in which the existing CBA could be improved, with the aim of presenting it to the company so as to reach what is known as an 'arranged negotiation' (a cooperative mechanism within which employers and unions are meant to reach agreement). On 16 January 2014 the union presented these requests to the company. The union received no official response to its list of desired changes, with DHL arguing that it had no money to increase wages or provide any of the other requested benefits. Since the company did not make a counter offer within the legally stipulated time period the union was free to ballot its members and go on strike.

The strike took place between the 10th and 13th of March 2014, and was lifted after a series of concessions were made by the company, including the promise of a raise for all workers, bonuses for night shifts, and other measures which resulted in an average 30% increase in the wages of the lowest paid workers.

As mentioned, according to Chilean law striking workers are protected for 30 days after taking strike action. After this period had lapsed the company set about mass lay-offs of those it believed to have led the strike action. A total of 42 workers were fired – all of them trade union members.

The trade union took DHL Supply Chain Chile to court, alleging anti-union practices and unfair dismissal. Seven workers agreed to act as witnesses. The tribunal decided that the company had indeed acted against the union. However, since according to Chilean law a company that is sentenced in this way is barred from public contracts – which would obviously damage the company – the union decided to agree to a 'framework agreement' with DHL. This agreement would set out the rules

and mutual commitments that would guide better worker-company relations in future. Although this took place in May 2014 the company has yet to set out what it wants and refuses to set a date by which it will do so, in a clear breach of good faith.

Between the strike and the court case, DHL's management sent an email to workers falsely accusing the union's president of having doubled his wages during the last year, making him 'the only beneficiary of the strike.'¹ The company also failed to pay a productivity bonus due to all workers to those employees who were in the union.

Working Conditions

The interviews revealed trade unionists as loyal workers with a sense of fairness and a concern for their working conditions. They reported problems with these, particularly at times of high demand, but the main problems they highlighted were:

- Workers being asked to take on extra responsibilities and to cover colleagues' holidays and absences without any preparatory training and without extra pay.
- Wage differentials for workers fulfilling the same role.
- Promotions without corresponding pay increases.
- Workers with good evaluations not being materially rewarded.
- Some workers reported that management see them as "weight" rather than as valued employees: "They don't value what we do".
- Workers resent broken promises made by supervisors with regard to time off and pay increases.
- Female workers report receiving lower pay than men doing exactly the same job.

A typical testimony was that of Valentina Pacheco: "They always try to make us believe that if you're in DHL you're in the best company ... they try to convince us that we'll not be better off anywhere else, but we operators know that this isn't so."

The greatest problem raised by the workers interviewed was the issue of wage differentials among workers engaged in the same tasks, as Juana Zorilla and Carla Edwards explained: "The wages are very uneven, too uneven. They say it's confidential, but we always share that information anyway." While the company insists that salaries are confidential information workers still compare notes with their colleagues and feel the injustice of being paid differing amounts for the same work.

According to these testimonies workers are routinely required to cover if colleagues are absent on holiday or sick; this is known as doing 'back up'. Workers are simply expected to do two jobs simultaneously. At the same time the company refuses to provide training to help workers carry out new roles. Despite being expected to continue fulfilling their own role alongside that of their colleagues, workers do not receive any extra pay.

¹ This is cited in an article on the case that was published in 'The Clinic' on 4 June 2014. It can be accessed here: www.theclinic.cl/2014/06/04/hostigamiento-y-revelacion-de-informacion-confidencial-las-denuncias-del-sindicato-de-dhl/

Workers asked for a bonus to cover this “even if just to buy anti-stress pills” but received no response from the company. Marcela López, a worker with 10 years at DHL, complained of being made to do the work for a man who then presented it to the client as his own work.

Juana Zorrilla had not received a raise for 2 years (until the raise provided by the company after the strike). Her supervisor said he would need to promote her in order to give her a raise, although this would merely be a nominal promotion. However, she showed initiative and learned the job of an administrator. As a result she was able to replace an administration colleague when she went on holiday. After the strike this colleague was fired, and Ms Zorrilla was told to take the job. She asked about the raise she had been promised to go with the promotion and was told it would be looked at in six months. She took the job, but now wishes she hadn't because she has been in the role for a year and her current supervisor denies all knowledge of the agreement to give her a raise. Nor has she ever been provided any proper training. Ms Zorrilla complains that managers don't transfer information on promises made to workers when they are replaced or rotated, and that they lie.

Workers report very unclear salary bands, with many ways of disguising incomes. Nobody understands what the criteria are for achieving pay increases. Marcela López testified that she had been an account executive and was now an administrative assistant, yet her salary has remained the same and she has no idea if these roles are in different salary bands. Another worker, Carla Edwards, complained that: “I was an account executive and I earned 392,000 (pesos) but there were others who had a basic wage of 500,000. This always bugged me a lot, knowing that there were people who earned much more than me for doing practically the same.”

Luis Nuñez, a warehouse worker with over 10 years' experience, was asked to find an assistant to help him in his role. He did so, and then trained him (without any extra pay). Yet, despite him having trained his own assistant, that assistant now earns 80,000 pesos more than Mr Nuñez.

Despite overwork and the pressures on workers to cover holidays, interviewees also reported that more recently managers have been making threatening statements that there are too many workers and that some will have to be let go, striking fear into the hearts of many employees – particularly those who have been there longest and those connected with the union.

Juana Zorrilla explained: “They don't value my work, and not just me, loads of us. We are all demoralised because they have said there's too many people in the offices and they will need to fire people.”

One worker, Valentina Pacheco, gave testimony of the “traumatic and shocking” abuses in one warehouse during 2011-12.² Workers complained about a supervisor who would open the lockers of people who had called in sick, and who was verbally abusive. The workers affected complained to the

Head of Accounts, and arranged a roundtable meeting with representatives of the trade union and DHL. When the workers put forward their complaints the Head of Accounts explained the supervisor's behaviour by saying that he had not been on holiday for a while and was feeling stressed. Ms Pacheco responded by asking, “Does that mean that if I come in and act like my supervisor does, swearing at you, and explain that it's because of stress, then it's OK?”. The manager simply tried to minimise the situation. The workers were obviously dissatisfied, and the case was taken up by the union, who reported it to the Labour Inspectorate. The company then fired the people who had given testimony to the Labour Inspectors. The packaging workers responded in desperation with an unofficial half-day work stoppage. Subsequently, the Managing Director met with the workers, but shortly afterwards their spokesperson was fired. Ms Pacheco was also fired a week after being well evaluated by her manager. Faced with this injustice Ms Pacheco approached the union, and agreed to meet the Head of Human Resources. He decided to inspect her work record for the last three months, and her last work evaluation. He found that her records had disappeared. Ms Pacheco was rehired and given three paid days off, but in 2014, when she requested a copy of her contract, she was informed that this too had disappeared without trace.

Unfortunately, Ms Pacheco's problems with DHL did not end there. After the experiences described above, she fractured a bone in her foot while at work, and then in 2013 she injured her wrist while lifting a pallet. These injuries were a result of the lack of training provided by DHL. Ms Pacheco was left with 15% mobility in her wrist, which naturally affected her ability to surpass her work targets. She has had no support from the company and has been left to deal with an extremely demanding and unsympathetic supervisor who, she says, makes her feel that “The quicker he can get rid of me the better. He demands that as a 48 year-old woman I fulfil the same targets as 28 to 30 year-old men”. As a result of these injuries and high workloads Ms Pacheco now also suffers from tendonitis in both ankles. Yet despite hitting her work targets, she reports that she is still under continuous pressure from her supervisor. She asked him to explain why he was pressuring her, and he gave various unconvincing excuses, leading her to say: “Look, if I'm not useful, fire me.” However, she feels that DHL practice is to “wear down the workers” so as to avoid paying compensation. Ms Pacheco's feelings on the matter are clear: “For me it's harassment.”

The 2014 Strike and its Aftermath

In spring 2014, after an unsuccessful attempt to negotiate a second collective bargaining agreement, the union felt it had no alternative but to go on strike. Workers felt that wages were a particular issue: “The managers always said wages here were above average but it wasn't the case, we had checked elsewhere with people doing the same job, and this motivated us to go on strike.”³ Other causes of the strike included the fact that adjustments weren't paid, and that raises were considered risible, at between 1-2%. The strike lasted from 10 to 14 March 2014.

² This testimony is drawn from interviews with Valentina Pacheco and Manuel Gómez, the General Secretary of the DHL No.1 trade union.

³ Interviews with Manuel Gómez, Carla Edwards, Valentina Pacheco, and Francisco Garcés.

On the first day of the strike the Carabineros (members of Chile's national gendarmerie) arrived with a water-cannon and heavy riot equipment. Meanwhile some DHL managers reportedly danced and laughed at the striking workers, and were abusive and mocking. Management brought in workers from other parts of DHL, and workers report that some of these shouted abuse and made obscene gestures from behind the curtained windows of the buses taking them in. The manager at the time also had to be prevented from ordering the Carabineros to attack the strikers. The abusive attitude was such that the Carabineros actually told management to stop provoking the strikers and to show some manners. Juana Zorrilla heard one manager laughingly say: "How long will these people last? They'll shit themselves from hunger."

After the strike, DHL management waited until the strikers lost their legal protection and then proceeded to fire 42 people. This was clearly a repressive measure and was understood as such by the workers. Interviewed workers reported people with clean records being fired, including some who had acted as spokespeople for the workers in the lead up to the strike action. In contrast, management seem to have rewarded one member of the workforce who, as Francisco Garcés recalled, had participated in all the trade union meetings leading up to the strike, but who did not appear on the picket line, and was instead found in charge of a group of strikebreaking workers in another facility not far away. He has subsequently been promoted.

The union called together the fired workers and asked them to take the company to court for unjustified dismissal. Of the 42 workers, most could not afford to risk losing the mandatory compensation payment, and only seven workers were able to come forward as witnesses. With these seven the union took the company to court, winning its case for unjustified dismissal. The seven dismissed workers did not win back their jobs, but received 30% more compensation. It was also agreed that the company and the union would negotiate a framework agreement to regulate their relationship; something that has yet to happen. The union took the case to the media, and an article about DHL and the strike was published in the weekly newspaper 'The Clinic'.⁴

Those workers who had participated in the strike reported that the post-strike period was very stressful, with the constant expectation of being fired. Marcela López remembered, "There were reprisals. I felt a lot of fear". The perception that the firings were an act of direct punishment for having organised and gone on strike was underlined by the fact that the dismissals occurred at a busy time of heavy workload.

In the wake of the strike the company replaced the Managing Director and dismissed the Head of Human Resources, as well as several of the supervisors. According to union officials this was not done so as to improve company relations with the workers and the union, but rather to punish management for having

made the mistakes that allowed the strike to happen. For, if the company had submitted a counter offer on time, the strike would have been legally prevented. However, an unintended side-effect of the strike has been to improve relations between workers and management somewhat. Another side-effect has been that management have become motivated to improve EOS scores, and since the strike have been more attentive to the views of the workforce. One worker stated that the new manager had met with workers and had asked about the EOS, what it meant to them and asked for points for discussion.⁵ However, this does not mean that the company's attitude to the trade union has fundamentally changed. Union officials underline the continuing lack of will by the company to arrive at a framework agreement.

Clientelism

In Chile workers also attested to the existence of clientelism and favouritism by managers and supervisors. According to testimonies, managers sometimes invent fake posts for their 'friends' on the shop floor in order to justify higher wages. Favourites were also sometimes paid more, or allowed time off, or paid for overtime they did not do.

This was illustrated by Marcela López, who recounted how: "In the 10 years I've worked here I've always felt that supervisors have their 'protected people'. They have drinking buddies and they favour them. Those favourites didn't have to sign in before the clocking in system was brought in. They would be given time off without needing to make it up. There's still favouritism today."

Anti-Trade Union Attitudes

When the union was set up bosses threatened workers with the sack if they joined, and several of the early organisers were fired. Francisco Garcés, a worker with 12 years' experience, recalled that: "At the beginning there was an anti-trade union attitude that was evident in threats, firings, zero promotion chances for people, and wage incentives to not join the union." As the union grew, supervisors betrayed anti-trade union views and would ask workers why they were joining when 'we treat you well'. These attitudes were further manifested in supervisors searching for shortcomings in the work of trade unionists, leading one worker to conclude, "It's not well thought of to be a member of the union".⁷ The strike exacerbated anti-union hostility, and in a clear reprisal after the strike the husband of one union leader was dismissed using Article 161. The union leaders also had their emails deleted and computers seized. Furthermore, when the strike ended the company paid the annual productivity bonus, which is meant to go to all workers, only to non-unionised workers.

According to some testimonies managers continue to single out trade unionists. For example, Marcela López, a worker with a

⁴ The report can be read in Spanish here:

www.theclinic.cl/2014/06/04/hostigamiento-y-revelacion-de-informacion-confidencial-las-denuncias-del-sindicato-de-dhl/

⁵ Interview with Andrés Castro.

⁶ Interview with Magdalena Cuéllar.

⁷ Interviews with Juana Zorrilla and Valentina Pacheco.

clean record who has smoked for 14 years, was recently suddenly warned about taking smoke breaks – even though she is not the only smoker in the workplace, and takes no more time than her colleagues. She feels she was singled out because of her union membership.

Following the replacement of the Managing Director, the new MD reportedly told the union president, Manuel Gómez, that he had “been asked for his [Manuel’s] head from abroad” and that he had also received instructions that by October of that year (2014) there should be no more trade union cells in the company.⁸

EOS Surveys: Listening Without Correcting

Those interviewed in Chile showed the same cynicism towards the EOS surveys and other forms of internal communication as workers in Colombia and Panama. Magdalena Cuéllar said “It’s like SERNAC (the national consumer watchdog); you put in a complaint and have to wait forever for a response”.⁹ She also pointed out that the surveys are heavily oriented towards identifying internal problems such as theft, and that these are the aspects that generally most interest management.

Juana Zorrilla, who has worked for DHL for 6 years, called the surveys “a salute to the flag” – a mere formality. “These mechanisms don’t resolve problems”, she said. According to the workers, management often strives to ignore problems even when they are highlighted in surveys. Marcela López added that the surveys don’t function because they are not properly anonymous. Workers filling out the survey are required to use a particular computer and are given a unique code in order to access the survey. Workers obviously suspect that their answers can therefore be traced back to them. Despite the distorting effects this must have on the surveys, workers tended to indicate that they fill out the section evaluating their direct supervisors honestly. Not a single worker stated that they had ever seen any change resulting from these surveys. As Marcela López said: “I don’t have much faith in it because they always say the same and there are never changes”. Francisco Garcés concluded that “The EOS is good when things that need to be improved are improved, but if it’s just to collect information then it doesn’t speak well of the company. Here the information goes to the region [regional headquarters], but they don’t take action”.

Moreover it seems that not all workers are asked to fill out these surveys, with Luis Nuñez, even saying, “I’m not sure they exist, I’ve never used them”.

Even direct meetings with managers did not usually produce positive changes, as Valentina Pacheco testified. Others had complained about their supervisors but no changes were ever made. As Juana Zorrilla said about supervisors and managers: “At first they come and talk and ask you what needs changing, they make notes on the problems with great enthusiasm, but then it all falls away.” As a result, for most workers there is cynicism about direct communication with management.

Andrés Castro, a worker with 9 years’ experience, summarised his view of the surveys and the other forms of communication saying, “The hard thing isn’t to listen – it’s to correct. Here they listen, but they don’t correct”.

Meeting with Other DHL Unions

In a meeting held separately from the interviews with workers, union officials and their legal advisers reported serious problems within other parts of DHL in Chile. Union officials from Sindicato No. 2 DHL Chile (based in Lo Aguirre) Supply Chain (Warehouses), and DHL Express (Couriers) were present. They reported that in DHL Global in Chile there were no trade unions. The union officials questioned the division of DHL into separate companies, noting that all wear DHL uniforms, and the existence of several clients that the three companies service together – for example LAN, the airline belonging to former President Pinera, whose brother wrote the Labour Code for Pinochet in 1979. Furthermore, union leaders also stated that in negotiations with DHL managers they refused to give increased bonuses, citing the need to keep within the level of bonuses given in other DHL-owned companies. Finally union officials also noted that all their companies are ultimately responsible to Frank Appel the DHL CEO, and therefore, while the divisions may play an internal administrative function, in terms of labour relations they are meaningless.

In DHL Express, the couriers’ union was set up in November 2013. The union came to have 120 members, but today has only 50. All the members have either been fired using Article 161 or have been persuaded to leave the union through promises of promotion and the provision of bonuses.

Indicating the company’s lack of openness to dialogue with unions, Pablo Millán, the President of the DHL Express union, reported that during a 2014 negotiation with the union, DHL management left the negotiations completely in the hands of their lawyers, not even attending the meetings themselves.

Union officials from all three unions present were unanimous in alleging that DHL’s anti-union attitude in Chile and elsewhere is “company policy”, because no matter where the managers came from “whether from Chile, Colombia, Guatemala or Panama” they all had the same attitude towards trade unions.

The Lo Aguirre and Express unions reported the existence of more than 200 subcontracted workers in their workplaces. The most active unionised workers are often required to train these subcontractors (without extra pay) and once they have trained them the union members are fired. Workers now fear seeing new faces in the workplace because it often means future dismissal. These subcontracted workers cannot join the trade union because they belong to a different company. Union officials report that after about a year the subcontractors are then hired by DHL directly, but having witnessed the anti-trade union campaign they are afraid to join the union.

⁸ Interview with Manuel Gómez.

⁹ Interview with Magdalena Cuéllar.

According to union leaders, in Lo Aguirre subcontractors are often on short-term contracts, on much lower wages, are overworked, and not given proper equipment or training. Many are often used for roles outside their contract, such as cleaning duties – as a result many of them suffer physical problems. They complained of DHL managers delaying writing up contracts, which by law have to be provided within 15 days. Unions say they just want the company to obey the law as they believe it does in Germany and other advanced countries.

In DHL Express and in DHL Lo Aguirre, union officials reported harassment and hostility from the company management and from security guards. The company tries to prevent the trade unionists from talking to workers. Supervisors who have seen workers talking to trade unionists will ask those workers what the conversation was about, and if the worker is reluctant to say, then he or she will be threatened with dismissal. In DHL Express the company has been trying to smear the trade union leaders, spreading rumours and saying things like ‘Why are you talking to those drunks and drug addicts?’. While these actions are carried out by supervisors, it seems likely that the instructions to do so come from higher levels of management.

Pablo Millán, the President of the DHL Express union, recalled how he was talking to workers at one point, and a supervisor said “you aren’t allowed to do trade union work during working hours”, and followed him around all day, listening to all his conversations; something he found both ludicrous and intimidating. According to the union leaders, management gives these orders but then denies it in meetings. DHL also puts other obstacles in the way of trade unionists exercising their right to organise workers – for example they don’t let them leave their workplaces, and constantly question their activities.

Supervisors routinely tell workers on the same team as union officials that the union is affecting their work, because they must compensate for their absences, and that they, the workers, are paying for the leader to be absent. Another leader recalled the Head of Human Resources telling workers that their annual party had been cut thanks to the trade union. As one union official put it “they take advantage of the situation very well”.

DHL has also worked hard to divide the unions that organise in the company as a whole. The unions have only been communicating in the last few months, because the company dedicated itself to spreading rumours between them to set them against each other. In May 2015 the former Human Resources Manager of DHL Express, told Pablo Millán, the President of the DHL Express union that one of her missions had been to keep the unions divided. Union officials now ignore these rumours and gossip and have organised a coordinating committee to deal with their common issues.

Interviewed for this report, Pablo Millán and Carlos Quezada, leaders of the DHL Express union, stated: “We recognise the existence of a campaign by the company to eliminate the trade union, one which has existed since the union was established until today, and even today they continue firing union members.”

The information given by the various union leaders provides insight into the broader context of DHL’s attitude towards trade unions in its operations in Chile. Although there is now some

stability in the relationship with both the DHL Sindicato No.1 and No.2, the company is acting aggressively to eradicate the union that was established in 2013 in DHL Express. Furthermore, the three DHL companies have cooperated to prevent the coordination of the various unions organising their workers, and continue to harass union members and officials in order to inhibit the further development of the unions, thereby violating the right of their workers to organise.

Questions Raised

Union leaders accused DHL of handpicking the workers to be interviewed for industry-wide employment surveys. When combined with the low employment standards prevalent in Chile and those benefits that DHL offers, this creates an inaccurate and exaggerated idea of how worker-friendly DHL actually is.

Union leaders also allege that DHL distorts the truth about the benefits workers enjoy as employees of DHL. When they analysed a recent leaflet handed out by management, they found that it included benefits that aren’t provided or paid for by DHL – such as the ones from the Caja de Compensaciones (non-DHL compensation funds) and a holiday bonus that had been negotiated by the union as part of the collective bargaining agreement.

Another example relates to the way in which DHL provided workers with a new contract that began to pay overtime. Workers at DHL Lo Aguirre were being contracted under Article 22 of the Chilean Labour Code – as if they were travelling salesmen or other workers without supervision – who under this article of the law are ineligible for overtime. At the same time, the workers were not provided with a proper system for clocking-in and -out, and so the union called in the Labour Inspectors, who found DHL was breaking the law. DHL was eventually fined for this. Subsequently, DHL informed its workers that it was going to change their contracts and begin paying overtime, but it presented the change as a magnanimous gesture rather than the product of their being found out by the Labour Inspectors called by the union. It is one of several examples uncovered during this study of DHL implementing changes which actually resulted from trade union activism.

Allegations of Surveillance and Corruption

There are grounds to believe that the phone calls of trade unionists, at least those of trade unionists in DHL Express, are or have been intercepted. Union leaders at DHL No.2 suspected that this might be happening, and decided to test it. At the time the union was discussing preparing for possible industrial action. Two leaders agreed to say in a phone conversation that they would go on strike later that day. Two hours later the police arrived at the warehouse. In further confirmation of their suspicions, a former member of staff at DHL Express told union leaders not to talk about union affairs over the phones because they were being tapped. The union leaders believe that their mobile phones are being tapped by private security agencies hired by the company.

Conclusion: Chile

DHL in Chile operates in a highly anti-union legal and institutional environment which one trade union lawyer described as: "Having everything against you. You have the referee against you, the law against you, the public against you, everything against you." In this context it is difficult to establish and maintain a trade union, and very difficult to take effective industrial action. Workers are highly vulnerable to being fired arbitrarily under Article 161 of the Labour Code. For DHL in Chile to truly abide by its Code of Conduct and the international conventions upon which it is based, it would need to completely reverse its attitude to unions. Despite the ratings proclaimed in the media, the reality is of an employer that has largely stooped to the lowest level of local business standards.

While workers and union officials value the positive aspects of working for DHL, they are clear about the many drawbacks. Overall it is clear that the company has not developed a positive or constructive relationship with its workers' organisations. According to union leaders and workers, DHL's management has displayed overt and tacit hostility to the unionisation of their workplaces in Chile. This hostility has only been slightly blunted by the relatively successful strike held by DHL union No.1, a success then marred by DHL's mass dismissal of 42 workers. This anti-union attitude was in evidence again when responding to efforts to unionise DHL couriers, where union leaders face various forms of harassment and repression that have seen the union reduced from over 120 members to around 50.

In Chile, DHL managers routinely present benefits as being gifts from a caring company, when in reality they are either benefits stipulated in the law, benefits won by unions in negotiation with the company, or benefits provided so as to undermine the position of trade unions. DHL management has done what it can to limit the unionisation of its workplaces, and it continues to do so.

"THEY SAY: 'YOU DESERVE A RAISE BECAUSE YOU DO WHAT I TELL YOU TO, SO I'LL GIVE YOU A GOOD RAISE' "

DHL worker, Panama

Labour and Political Context

The Panamanian Labour Code was created under General Omar Torrijos in the early 1970s, and enshrined the state's role in protecting workers. The Labour Code was heavily reformed in the 1980s, and following the 1989 invasion by the United States, Panama undertook an overtly neoliberal social and economic policy, which culminated in Law No.44 of 1995. In the early 2000s the Moscoso government enabled what has been seen as a takeover by business interests of the Ministry of Labour when it appointed a businessman as Minister of Labour. Reforms and judicial precedents established in this period put the burden of evidence upon the worker in cases against employers. As a result, Panama has a contradictory legal framework which enshrines worker protection, but also creates space for the violation of workers' rights.

More recent governments have maintained this pro-business attitude, with the Martinelli government in 2014 opening legal cases for corruption against 9 union leaders. Despite the case collapsing, the present government (now led by Juan Varela, the Vice President of former President Martinelli, who is currently facing a corruption probe) has not withdrawn the investigation. The union leaders allege that they are victims of judicial persecution and continue to be obliged to sign in with the police every 30 days. For unions to exist they need to be recognised by the Ministry of Labour. Yet under President Martinelli the Ministry of Labour has not recognised a single trade union: this is a violation of the right of association. Public sector workers are not allowed to unionise. As a result of these issues, in 2012 Panama was included in the ILO (International Labour Organization) 'blacklist' of countries that violate labour rights. Unions cover between 10-14% of the working population. Over 40% of the population works in the informal sector. Panama has 34 minimum wages defined by both region and economic activity. Much of the country's wealth is concentrated in 115 wealthy and very influential families.

Negotiating in Questionable Faith: DHL Express

On 11 November 2014 the SIELAS (Sindicato Nacional de Trabajadores de la Industria de la Aviación Civil y Similares) trade union presented the Ministry of Labour with its list of workers' signatures and demands, the means by which workers inform the state and the company of their joining or creating a union. On November 20 the Ministry presented DHL with a copy of the list of demands, ordering the company to begin negotiations. On 9 December 2014 negotiations with representatives of DHL Express (in the negotiation named as DHL Panama S.A.) began. Over the course of 14 meetings 103 of 115 clauses were negotiated and agreed by the two sides. During the last meetings the negotiations got stuck on the issue that the company wanted to be able to define who would and would not be eligible to join the union, arguing that the vast majority of the company's

administrative workers were so-called 'workers in positions of trust', a category usually confined to top management, and normally excluded from unionisation. The union argued that the company had no right to arbitrarily decide which of its employees could or could not choose to join the union.

Then at the last meeting on 15 January 2015, the company lawyer, Eduardo Valles, reported to the union that he had presented an 'Action for Protection [Guarantee of Protection of constitutional rights]' to the Supreme Court, arguing that SIELAS's organisational remit did not cover the economic activity that the company carries out. The union had suspected that this might happen, because the company lawyer had hinted at it earlier in the negotiation, seemingly as a means of pressuring the union negotiators to agree certain clauses. This action, despite being an extraordinary constitutional measure, was accepted by the Supreme Court. This was despite the Ministry of Labour having accepted the list of demands, and therefore the union's

legitimate status as the DHL Express workers' representative, and also despite the fact that DHL Express had already negotiated with the union over several weeks, thereby recognising de facto SIELAS's status as a legitimate representative of the workers in its employ. Moreover, the negotiations had been based on the first of two agreements recently achieved between SIELAS and DHL Aeroexpress, which allowed the union to organise administrative and sales staff. In this light the company's actions can only be understood as the strongest of efforts to prevent the effective unionisation of the staff.

The Panamanian Supreme Court is now in the process of making a decision on the issue, which could take months or even years. Meanwhile the process of negotiations is suspended. In January 2015 the union presented its opposition to the Action of Guarantee. The union's lawyer has categorised the situation as "totally unusual".

According to union officials, the company followed a duplicitous twin-track policy of, on the one hand, negotiating, and on the other, at the same time also presenting the Supreme Court with the Action of Guarantee in order to end the negotiation and potentially eliminate SIELAS from its workforce. The company's General Manager told the union's negotiators that the company was negotiating under duress, because the law stipulates that once a list of demands has been accepted by the Ministry of Labour and then presented to the company, the company has five days to begin talks. Throughout the negotiation of the early clauses the management team repeatedly pressured the union negotiators to agree everything rapidly 'before the Action of Guarantee' came through. This attitude raised suspicions that some form of clandestine, underhand deal had been reached between the company lawyer and the Supreme Court, especially given the public accusations of corruption that surround the Panamanian judiciary¹⁰, and because the company's lawyer is known for his social and business connections, which include representing several of the current President's businesses.

Actions to Undermine the Union

However, DHL's hostility was not limited to legal manoeuvrings. The company also carried out a variety of what are clearly illegal measures designed to undermine SIELAS during the negotiation process. For example, in early January 2015 one of the Human Resources managers circulated a blank piece of paper which administrative workers were asked to sign in order to express their opposition to joining the union. According to testimony from Eulogio Valdez, Agustín Gutiérrez and Elías González, the same manager also told these workers that the union subscriptions would be high (20-30 dollars a month), when they are in reality fixed at 1% of the wage. At the same time DHL managers suddenly began buying workers pizzas and sandwiches, and treating them better.¹¹ The workers interviewed clearly connected these gifts of food and changes in the way

they were treated to the company's desire to win them over and keep them away from the union.

In December 2014 Eulogio Valdez and Agustín Gutiérrez, two workers who had been participating in the negotiations, found that they had been forbidden from entering the workplace while the negotiations were on, and were told that they would need permission from Human Resources in order to enter. This was despite them having been asked by other workers for information from the union on the status of the negotiations. Meanwhile the company's representatives told the two workers that the measure was for their own security since the other workers were supposedly so irate with them that they might assault them. According to the management representatives the workers were angry because the union "wasn't achieving anything", and because the union subscriptions would be a large proportion of their wages.

After a break for Christmas the negotiations switched to discussing clauses relating to the types of workers the union ought to be able to organise. As it had agreed with DHL Aeroexpress, SIELAS sought to organise both administrative and operational staff – in other words both couriers and office staff. The company was against this. When SIELAS negotiators asked the Human Resources Manager why the company was so opposed to this when DHL Aeroexpress had not had any problem, she responded that "they (DHL Express management) don't want to".¹²

A day before the negotiations were ended by the Supreme Court's acceptance of the Action of Guarantee, the DHL Express Human Resources manager asked for a *Petit Comité*¹³, during which she offered two of the lay members the chance to 'run Operations together', implicitly offering them more money; as well as offering more money to the union as long as they limited their organising to Operations and desisted from their efforts to organise administrative staff as well. According to the recording of the meeting the manager said that if they did not get the union to agree to this her "hide would go no further" (understood as meaning that it would be the end of her career in DHL). One of the negotiators recalled her saying in one meeting that if she agreed to allow the union to organise outside Operations "they will blow my head off". After stating that the union officials were only interested in money for themselves, she also tried to convince them to persuade SIELAS leaders to accept an increased quota from DHL for SIELAS ("it will even be tax free", she said) in return for limiting themselves to Operations staff. The Human Resources Manager's efforts appear to be a clear attempt to divide the union negotiators and thereby prevent the unionisation of the administrative staff.

It is difficult to escape the conclusion that this negotiation process revealed exploitation by DHL Express of legal grey areas, as well as bad faith in order to delay or prevent the unionisation of its workforce.

¹⁰ For examples of high-level corruption see <http://elsiglo.com/panama/escandalo-salpica-benavides/23859338> and http://imprensa.prensa.com/panorama/magistrado-Alejandro-Moncada-Luna-queda_0_4042845696.html

¹¹ Interviews with José Riquelme, Elías González, Mario Herrera and Jhon Benítez.

¹² Interviews with Eulogio Valdez and Agustín Gutiérrez.

¹³ A side meeting usually convened to deal with a specific issue in the negotiations.

Resistance to Oversight by the Union

One potentially worrying motive for this anti-union attitude surfaced during the interviews. According to testimonies from union members and leaders, some managers and supervisors in DHL Express are or were involved in side businesses that were likely to be affected by the negotiations with the union. For example, during the negotiations the union suggested that workers be offered first refusal on the company's old vehicles. The company negotiators refused, stating that this was impossible because a contract already existed with the supplier for the vehicles to be returned to him as a guarantee of the next purchase. The union dropped the request, but a few weeks later when it came to signing the clause, the company unexpectedly *did* offer the workers the right to first choice at auction. The union signed the clause, but the trade union officials wondered at the reason for the abrupt change, which they assumed must have been because no such contract had ever existed.¹⁴ Agustín Gutiérrez then reported that his supervisor, upon hearing the news said "Ah, you guys took away the business of (a named manager and supervisor)!" A possible conclusion is that the named manager and others were reselling the company vehicles for personal profit. Other testimonies point towards a similar side 'business' existing in relation to the vehicle radios.

This indicates that one reason why local managers are so set against the union in DHL Express could be because the union potentially acts as a form of oversight of managers' activities that managers are not able to control.

The existence of any such side businesses by DHL management would conflict with DHL's Code of Conduct, which requires management to declare any potential conflict of interest, and forbids them from profiting from inside information.

Changes Following Union Action?

Following the breakdown of negotiations the company implemented several of the initiatives that the union had taken to the negotiation table, such as providing a raise for all the workers, as well as making other efforts to improve the company's relationship with the workforce. Interviewees testified to a first ever motivational speech by the General Manager, as well as talks on health and safety. Rogelio Cuvillier also noted that the Human Resources Manager had witnessed the negotiations process, had seen the way the company acted, and therefore had resolved to make some improvements on her own initiative. According to Mr Cuvillier, the Head of Human Resources is now clashing with the older male managers, one of whom, for example, retired six years ago, but remained employed by the company until recently. Another worker indicated that following the negotiations, his manager had begun to move away from practising favouritism. Others reported that managers began ordering takeaway food, and appeared to treat workers more fairly immediately after the negotiations. The pay rise was presented by management as a unilateral measure unconnected to the negotiation with

SIELAS – but suspicions were raised that it was implemented only after DHL sabotaged the negotiation and came at the same time as a raft of possibly cosmetic and temporary measures that sought to improve relations with workers.

Attitudes Towards Unions

Although none of the workers complained of explicitly anti-union activity they were all well aware of what had happened to workers who had tried to unionise the company in the past. At least three former employees at DHL Express had been fired for having tried to organise a union between 2010 and 2014.¹⁵ Thus there was an evident social memory of the dangers of joining a union.

José Riquelme, who had been recently employed by the company, said that when the union was established, he was asked by the deputy of the Human Resources Manager whether he "agreed with the union". Mr Riquelme did not express an opinion because he had already heard what had happened to those who had tried to start a union before and he perceived that the management attitude towards people joining the union was that they did so only to "cause the company problems". The manager's assistant then asked him whether he had joined the union knowingly, suggesting a belief that people only joined the union if tricked into doing so. Agustín Gutiérrez recalled that at the end of October 2014 SIELAS had put up posters around the workplace featuring an extract from the Labour Code that explained the right to unionise. Management's response was to tear them down, and then get supervisors to find out who had placed them, before telling workers that this form of activity was forbidden.

While it seems that DHL Panama management did not actively express clearly defined anti-union opinions to workers, there is no doubt that during the negotiation they did what they could to undermine the union, given that: the negotiations stalled on the issue of allowing the union to cover administrative staff; management's collection of an anti-union list of signatures; the false information spread about union subscriptions; the twin-track approach to the negotiations; and the efforts to split the union negotiating team.

These efforts made by the company to avoid the organisation of its workforce are, therefore, in direct violation of DHL's Code of Conduct, as well as Article 138 of the Panamanian Labour Code, which forbids employers from constraining workers from affiliating to a trade union.

DHL Express: "A Company Where You Work Under Pressure"

Although pay and working conditions were considered broadly normal by many of the workers interviewed, especially after the raise implemented in the wake of the broken negotiations with SIELAS, they did raise several issues about their working conditions. Couriers complained that they were under

¹⁴ Interviews with Rogelio Cuvillier and Eulogio Valdez.

¹⁵ Interviews with Agustín Gutiérrez, Elías González, Jhon Benítez, and Eulogio Valdez.

contradictory pressures from the company to drive responsibly and not to damage their vehicles, but at the same time to deliver a large quantity of packages daily, which required them to drive at speed and take risks. Workers are also under financial pressure to deliver a high quantity of packages because a significant part of the income derives from a productivity bonus that depends on the number delivered. Workers are also put under pressure to work on and just after national holidays. Eulogio Valdez reported that on one occasion the Operations Manager had told him that, "You'd better be in, or in hospital, otherwise you know what will happen to you," when telling him that he had to work through a national holiday and on the Monday and Tuesday afterwards.

There were also complaints about the unsatisfactory health insurance contract held by DHL in Panama, which, unlike in the rest of the region, was not provided by the multinational AIG group, but by a local company called PALI (Panamerican Life). Workers complained of being pressured to work even when ill, with Elías González, an asthmatic and a worker with 9 years working at DHL, recalling that when he tried to call in sick once during a severe asthma attack his supervisor said, "No, just go to the chemist's and get some pills". Another worker said that he had also been made to work when ill with colds or flu.

Administrative Disorder – and Favouritism

The interviews detail a company that fails to provide transparency or basic methods of recording hours worked. One of the major complaints workers expressed was that there was no open and transparent method of clocking on and off work. DHL Express apparently used to have a mechanical clock card system, but this was retired several years ago.¹⁶ Since then workers have had no way of proving the hours they have worked, which has made payment of overtime subject to arbitrary decisions by supervisors. Last year the company installed a fingerprint scanning clocking-in system, but after a few days it was withdrawn for repair, and the workers had no idea if it remained functioning or not. Some have continued to use it to clock-in without knowing if it is recording their arrivals and departures, while others no longer use it. This situation breaches Article 128 Points 11 and 21 of the Panamanian Labour Code which stipulate that employers have the duty to provide a register of hours worked, including overtime, and provide detailed information on pay structure when it is partially made up of commissions, bonuses or other incentives.

Not only does DHL not provide accurate information to workers on their income, but until recently the way it paid its workers in Panama broke the law. Workers at DHL Express were paid 25-30% of their salary in the first fortnight of the month, and the rest at the end of the month. This violated Article 148 of the Labour Code, which states that the salary should be paid in full at the end of the payment period. The issue was one of SIELAS's negotiation points, and according to union officials even DHL's lawyer was surprised that the company was paying its workers through an illegal mechanism. DHL's representatives argued that the payment system was based in Costa Rica, and

the salaries were paid according to this system. Even if this was the case, it was still DHL's responsibility to abide by Panamanian law. The legal infringement was corrected shortly afterwards, and, although DHL management presented it to workers as a unilateral beneficent correction, the workers knew that the change had occurred because SIELAS had placed it on the negotiation table.

Workers also complained of the lack of a transparent salary structure. People who have been at the company the same length of time have different incomes, with the only difference being their relationship with the supervisor or management. This breaks Article 63 of the Panamanian constitution, which states that 'To equal work under identical conditions corresponds, always, equal salary or wages'. Others complained of having repeatedly had good evaluations but never having received a raise as a result, while others received a raise simply because of their relationships with supervisors and managers. As Mario Herrera said: "They say: 'you deserve a raise because you do what I tell you to, so I'll give you a good raise'. I could see it happening ... and it didn't seem fair to me."

Another worker, Elías González, asked why he had not been given a raise in several years and was told he needed to transfer to another department. Yet, he reports, all his transfer requests have been turned down and the posts given to managers' favourites. Another worker, Eulogio Valdez, had not received a raise in four years until last year, despite good evaluations. According to the workers interviewed DHL management consistently says that there is no money for pay increases. This approach has demoralised and frustrated workers, particularly when combined with the seemingly unjustified raises for colleagues. The implementation of a transparent salary scale and a pay raise were on SIELAS's negotiation agenda in the terminated talks with the company.

Another source of frustration revealed in the interviews is the fact that workers are obliged to request time off as if it were a personal favour from their supervisor, even if the worker is owed time off in lieu, or if it is because of unforeseen circumstances or illness. This means that workers end up feeling both resentful and indebted to the supervisors, who also appear to understand their 'favours' as requiring repayment in future. José Riquelme described the situation in the following way: "The day he doesn't want to give me an authorisation ... he feels, or I think he feels, he has a green light to do so because he's done me favours." The lack of any regulation or oversight of this type of interaction by the company opens it to potential abuse by supervisors and managers. All the workers interviewed complained of this culture of 'favours' and 'convenience' where there is no equality of treatment, and where the interests and needs of the individual worker are not taken into account. Fernando Parfait, SIELAS union leader, summed the situation up: "The favours they are conceding are actually rights that workers have."

Favours included being ordered to work during holidays, on festive days and at times of high demand. Workers reported not feeling able to refuse because of previous 'favours' and because of the fear of becoming a 'black sheep' who would then be given

¹⁶ Interviews with José Riquelme, Elías González, Mario Herrera and Eulogio Valdez.

the least favourable routes, not be given time off when requested, be forced to work the worst shifts and so on – all of which would then be reflected in their salary, since the productivity and other bonuses formed a substantial part of their income. Workers felt that management retaliation would not be direct, but would lie in “ruining the relationship with management”, and thereby “exposing yourself to the arbitrariness of the arrangements in the company”.

Another major complaint for several of the interviewed workers was the existence of a salary cap. Workers who reach an income of around 950 dollars per month have their salaries capped, and thereafter receive no raise. Once the salary cap is reached it makes no difference whether you do training courses or have worked for several years; no increase is possible. This system means that workers can remain on the same salary for years at a time. As Elías González, who has worked at DHL Express for 9 years complained: “This shouldn’t exist in the company because we carry on working and we carry on giving everything for the company, only for them to say ‘you have a salary cap and we won’t give you any more’.”

Taken as a whole this situation raises questions about how far the situation is accidental, or whether poor record keeping, unequal pay levels, stagnant wages, salary caps and a culture of favours and arbitrariness are implemented specifically to avoid having to pay workers their full due.

EOS Surveys and Other Forms of Communication

All the workers interviewed were cynical about the effectiveness of the EOS surveys since they had filled out several, in which they knew that many respondents had made negative comments about management or supervisors, and never seen any changes as a result. “It never goes anywhere,” was a typical opinion. Several workers expressed the suspicion that the surveys were manipulated by Human Resources, with José Riquelme saying, “Human Resources sends that to Europe just to show that they’ve done it”. “Exactly!”, echoed Mario Herrera.

None of the workers had made use of or knew of any other forms of communication with higher management such as a website, email address or telephone number. Some of the workers expressed the view that skip level meetings would merely lead to a deterioration in the relationship with their immediate supervisor, without necessarily leading to any change. Mario Herrera referred to his experience of going over the supervisor’s head to get a day off in lieu and then being punished for it.

Overall, the interviews painted a picture in which there were no effective and safe means of communicating grievances to management. Existing forms were seen as manipulated or ineffective.

“Abusing the Trust of Trusted Employees”: the Situation of DHL Aeroexpress Pilots

Two of the DHL workers interviewed were DHL Aeroexpress pilots, Miguel García and Enrique Castillo. Their testimonies revealed not only the weaknesses inherent in being considered ‘employees of trust’ but also several highly irregular problems within the company.

The pilots described how they had not been included in SIELAS’s first collective bargaining agreement because they had initially agreed to being considered as ‘employees of trust,’ but that events over the last year had seen many of them join the UNPAC union because in their words, the company “abused that trust”.

A clearly distressed Miguel García described a case of unfair treatment and persecution resulting from a forced landing abroad, during which he was forced to pay for the repair of the aircraft engine, as well as the cost of his hotel. Afterwards the pilot was also “sent to a simulator” which is seen as a form of punishment. Mr García was then suspended because he took up his situation with the Civil Aviation Authority. He was then elected by the other pilots to the executive of the union of DHL pilots in UNPAC, but is still waiting for this to be accepted and ratified by the Ministry of Labour. Meanwhile, he has no labour protection and continues to suffer such serious emotional distress that he no longer wants to fly at all.

Apart from this apparent abuse of labour rights, the pilots also alleged that there were cases of systemic corruption and graft within the company. These accusations concern the leasing of US-flagged aircraft by DHL Aeroexpress. It is alleged that some DHL Aeroexpress managers have been receiving bribes in return for using aircraft from particular companies.

Pilots described not receiving pay increases and working out among themselves a suggestion for a way to economise on fuel, with 10% of the resulting savings to be used to provide them with a pay rise. They presented this to management and the company then adopted the new system, but without giving the pilots a raise.

The pilots complained that one former Regional Manager had shown an interest in working conditions in Panama, but he had subsequently been sent to Bahrain, after lobbying from managers in Panama, with the implication being that he was moved on in order that he not disturb the cosy situation local and regional managers had created for themselves.

Enrique Castillo told how three days before our interview (in May 2015) he had found a piece of paper in his locker describing DHL Aeroexpress’s policy on summary dismissal for breach of confidentiality. The sentence on being fired was highlighted. The pilot asked his colleagues if they had received the same memo, but only those involved in the union were affected. This strongly appeared to be a threat to union members with the implication that if you talk too much you can be fired.

¹⁷ Zonians are usually understood as US citizens who lived or grew up in the US-controlled Panama Canal Zone. Today many have dual US-Panamanian citizenship.

The views of the DHL Express workers on the EOS surveys and other forms of communication were also corroborated by the two DHL Aeroexpress pilots interviewed. Miguel García described managers meeting with workers one by one before the survey took place in order to influence what they would write, and so as to get an idea of what workers' attitudes were. Enrique Castillo also said that the most effective means of communication he had come across had been a clandestine email to a manager in the USA which highlighted a situation where the company was promoting people and giving them extra responsibilities without raising their pay.

The pilots also reported their view that managers had manipulated the workers that DHL CEO Frank Appel met with last year. The visit was kept secret by managers and only selected workers were permitted to meet him. Management's perceived attitude to its workers is illustrated by the anecdote told by Mario García, who recalled that when the DHL Aeroexpress Human Resources Manager left the company in 2014 the General Manager allegedly said: "I need an SOB (son of a bitch) in that job." The pilots speculate that the General Manager, a Zonian¹⁷ and a founder member of DHL Aeroexpress, has powerful connections in Panama and in the United States, which enable him to behave in this way.

Conclusion: Panama

DHL's operations in Panama have taken advantage of a poorly regulated labour market and an ambiguous legal context to abuse worker rights. DHL Panama S.A. and DHL Aeroexpress have displayed an anti-union position evidenced by their sustained efforts to prevent the unionisation of their workforces. These efforts have taken the form of firings, misinforming the workforce, tacit threats, and the effort to have the bulk of the workforce falsely categorised as 'employees of trust'. Managers and supervisors manifest a negative attitude towards trade unions in general, with their behaviour betraying a mistaken belief that SIELAS is effectively an enemy of DHL.

A culture of apparent clientelism is exacerbated by administrative incompetence, which may or may not be by design, since it serves to increase worker dependence on supervisors, and by extension make them more pliable to management. There seems to be little reason why management in Panama would be unable to provide accurate records of hours worked, or a clocking-in system. The lack of a transparent salary scale and the existence of unequal pay for workers fulfilling the same roles breaks Panamanian law, and also serves to make workers more vulnerable to their supervisors. Whether this is due to poorly selected and poorly qualified local management or the result of a strategy to ensure a weak and easily influenced workforce is as yet unclear. What is clear is that it is in violation of Panamanian labour law, as well as DHL's Code of Conduct.

The lack of attention by DHL headquarters to these issues suggests at the very least either their concealment by local management, or a lack of real interest in working conditions, probably because the existing structures continue to provide a steady profit for DHL. What improvements DHL management have implemented appear to be related to the existence of a trade union and management's desire to weaken its position. An

apparent improvement in the treatment of workers, the sudden giveaways of takeout food, the change in the salary payment system and the post-negotiation pay raise all clearly occurred within the framework of the negotiation with SIELAS.

The situation as described by workers and union officials is one where, at best, DHL managers can be said to be making the most of Panama's poorly regulated labour rights context, as well as their personal connections with the small Panamanian elite, taking the company into the grey areas between what is legal and what is not. At worst DHL managers have knowingly broken Panamanian law and DHL's Code of Conduct, and aimed to sabotage SIELAS to prevent the unionisation of DHL's workforce.

The allegations of corruption and profiteering by some members of DHL's management in Panama require an in-depth investigation, but it should be noted that loose central control, the ineffectiveness of internal control mechanisms (such as the EOS) and the lack of a strong trade union within the company have created ample scope for local management malpractice.

Some workers expressed the view that DHL's practice of appointing Managing Directors from abroad meant that they had a limited understanding of local conditions, and were in weak positions of authority when faced with local senior staff with well-developed and sometimes powerful social networks. If reports of a corrupt network stretching its tentacles across DHL's operations in Central America and into the United States are true, then this would further weaken the ability of foreign Managing Directors to deal with the problem.

SIELAS's role in accidentally highlighting one example of such malpractice during the negotiations may have forced managers to put an end to at least one alleged profitable side-business, and it is therefore possible that it is the threat that the union poses to these corrupt practices that motivates management anti-union attitudes in Panama.

"THEY TOOK REPRISALS AGAINST ME, AND THEY DIDN'T HAVE THE CORRECT BEHAVIOUR TOWARDS ME"

DHL worker, Colombia

Labour and Political Context

Colombia is the most dangerous country in world in which to be a trade unionist. Since 1986 some 3,000 have been killed or 'disappeared', the vast majority by paramilitaries connected to the Colombian state.¹⁸ Threats and killings continue, with 27 trade unionists recorded killed during 2014.¹⁹ While the rhetoric concerning unions under President Santos has become less aggressive, they still experience an immensely difficult environment. Colombian trade unions face hostile state institutions, with strikes routinely met with violence by both the army and riot police. Trade unionists are targeted by the intelligence services and by a judiciary that systematically persecutes union members while utterly failing to investigate the crimes against them. For example, in August 2014 Huber Ballesteros, a trade unionist of 30 years standing, and a member of national trade union federation the CUT (Central Unitaria de Trabajadores de Colombia) national executive, was imprisoned on false allegations of terrorism. Meanwhile, impunity for serious crimes against trade unionists stands at around 95%.

In Colombia various mechanisms exist that undermine the ability of trade unions to function, among them Collective Pacts offered by employers to workers in return for their resignation from a trade union, Cooperatives of Associated Work that effectively function as subcontractors, and the widespread subcontracting of labour.

There is an undeniable and widely recorded systemic bias against labour rights in Colombia. The everyday effects of this are described by Diogenes Orjuela of the CUT: "Colombians still have to sneak around to form a union and any employer immediately fires workers who make one, while the reaction of the [Labour] Ministry is slow, and it imposes such ridiculous fines that employers don't care about that type of sanction. The Ministry does not confront the employer and say: 'Here, workers have the right to have unions and collective bargaining, and whoever obstructs that will feel the weight of the law fall on them.' There continues to be an anti-union stance on the part of employers, even the government itself, because in the state entities there are anti-union practices in terms of negotiations, in the office of the attorney general, of the public prosecutor, and in the Ministry of Labour itself there are obstacles to opening collective negotiations with the unions."²⁰

The result of this legal framework and systematic repression is to make Colombia one of the world's hardest countries in which to organise workers. Only 3.9% of workers are members of a trade union and there is much ignorance and fear of trade unions in society. More than 60% of the working population labours in the informal sector.

Despite some cosmetic improvements aimed at facilitating the passing of the 2012 Free Trade Agreement with the United States, Colombia still has no functioning system of Labour Inspection, which was categorised as "almost non-existent" by Alejandra Trujillo of the Friedrich-Ebert-Stiftung foundation in Colombia (FESCOL).

¹⁸ For more on the human and labour rights situation in Colombia see the website of Justice for Colombia, the TUC's labour rights campaign on Colombia: www.justiceforcolombia.org

¹⁹ This figure is from the Escuela Nacional Sindical (ENS).

²⁰ For more on the Labour Action Plan and the situation of labour rights in Colombia see the ENS report from May 2014 available on the WOLA website: www.wola.org/sites/default/files/Colombia/Labor/ENS%20LAP%20Report%20English%20translation.pdf

DHL Express, the STPC, and the SNTT

In 2009 a union called the STPC (Sindicato de Trabajadores Postales de Colombia) began organising in DHL Colombia. By 2012 they had 10 members in the courier division. Over the course of 2013 the union tried to map out what problems workers in the company were experiencing, as a prelude to an organising drive. During February 2014, while the union recruited 14 more members, DHL commenced its anti-union campaign.

In March 2014 all workers were given a 19% raise and workers affiliated to the STPC were called and promised bonuses, holidays and promotions if they left the union. By the end of April these measures had the desired effect and most the union's members resigned. Following this engineered setback the STPC agreed to hand over the unionisation effort to another union, the SNTT (Sindicato Nacional de Trabajadores del Transporte). The remaining handful of workers began working with the SNTT in June 2014 and then in August 2014 the SNTT began efforts to expand the organisation of workers in DHL Express, while also making an effort to reach out to workers in DHL Global.

In the wake of these events, on 16th October 2014 two global union federations, the ITF (International Transport Workers' Federation) and UNI Global Union sponsored a meeting between the SNTT and the company. According to testimonies from Colombian and international union officials it was a tense meeting. UNI and the ITF told the company representatives that DHL was breaking the agreements that the company had in place with them following an OECD (Organisation for Economic Co-operation and Development) ruling. The Managing Director of DHL Colombia rejected the accusation that the company had broken Colombian and international law, saying that the unions had no direct proof of this. The legal adviser then stated that it is often "bad workers" who join the union because they know they have committed mistakes and need protection, implicitly accusing SNTT of being corrupt and organising in order for the officials to enrich themselves. The aggressive and hostile attitude of the company lawyer was a surprise for the union officials present. The meeting finished with an agreement that the unions could request another meeting to deal with 2 or 3 concrete points, and that the company would then decide upon its response. So far there has been no follow up on this.

The result is that the company is refusing to negotiate until the union presents a list of demands, but the union refuses to present a list of demands until they have a substantial number of workers affiliated. This is also partly because the SNTT does not want to enter a costly negotiation for a handful of workers, when much the same could be achieved in a process of direct dialogue without the need to pay expensive lawyers. This, in addition to the difficulties DHL places on organising the workers, makes the situation very complex to resolve.

Alleged Systematic Anti-Union Activity

According to the workers interviewed, when DHL was a US-owned company there were no significant labour problems. They began when Deutsche Post bought DHL and cut many of the old benefits. As a result, workers in DHL Supply Chain (part of DHL Express), created what they called a 'logistics group' to air their complaints to management.²¹ These complaints were presented several times to management but at no point was anything done to remedy the situation, despite the mediation of the then Managing Director of DHL Express. It was frustration at this lack of response that led workers to affiliate to the STPC in 2013.

Workers testified to anti-union efforts made by DHL. These were initially very aggressive and then became more subtle. When first confronted with the STPC union in 2013, DHL supervisors (called Coordinators) talked to workers, spreading falsehoods about the role of unions, telling workers that they existed to bankrupt companies and enrich their officials.²² Most of these Coordinators have now moved on from DHL. At the same time, the company put pressure on the 20 or so workers who had affiliated to STPC to leave the union. According to workers' testimony, some were offered promotions, others were given salary increases or grants, and some offered holidays. These were very effective measures, as recalled by José Ignacio, one of the STPC activists at the time: "Five people joined the STPC on the Sunday, on the Monday we had a meeting ... we hadn't yet notified the Ministry, and by the Tuesday all of them had resigned. The company had already got to them."

Furthermore, although there is no legal proof that the company wrote the letters of resignation for the workers, they all followed a very similar pattern and used legal language that it is unlikely would have been utilised by the workers acting on their own initiative. So much so that, according to Alejandra Trujillo of FESCOL "the hand of the company was evident". The union tried to take legal action against DHL over this, but the courts ruled that, while the letters were indeed similar, this didn't prove that the company had written them. This decision may be viewed as an example of the kind of legal barriers that unions face in Colombia, where state institutions often display an anti-union bias.

Workers also described how DHL sometimes took specific trade union demands and then implemented them, presenting them as 'gifts' from the company that had nothing to do with the trade union that had suggested them. For example, as José Ignacio recalled, couriers had asked for Saturdays not to be part of the standard working week, but had no response from management. The SNTT put forward the suggestion that couriers should not have Saturdays as part of the standard working week and soon afterwards the company cut Saturdays from the working week. As Alejandra Trujillo from the FESCOL noted, "You can always find a relationship between what the trade union demanded and what the company did". Unfortunately for the workers the gains made in this manner are not guaranteed as rights, and are therefore subject to the whims of management, which could potentially decide to withdraw them in future.

²¹ Interview with Diego Olivares.

²² Interview with Diego Olivares.

In a further example of this kind of inducement to resign from the union, Diego Olivares confirmed that in the summer of 2013 he was offered 70 million Colombian pesos (about US\$25,158, €24,000) to resign from the union (STPC) and then leave DHL Express. He refused. The offer was made by a rank and file colleague acting on behalf of the management, apparently so as to ensure deniability. This would constitute an action on the limits of legality. Alejandra Trujillo of FESCOL corroborates this view, stating that: "It's not very legal to convince people to leave a trade union, but nor is it illegal while you can't prove the company did it, and in this case the company hasn't left much evidence". While this is so in a strictly legal sense, it is worth noting that the worker testimonies clearly assert that DHL in Colombia systematically acts to destroy and undermine the unionisation of its workforce through a series of illegal and semi-legal methods.

Isolation and Sanctioning of Remaining Union Members

Of four workers connected to the trade union, one, José Ignacio, has been isolated in a building in the centre where he works alone and has no contact with other DHL employees. The official justification is that he suffers from an arm injury that prevents him from being a courier, despite the fact that another worker with the same injury continues to work in that role. Another worker, Diego Olivares, works in a position where there ought to be a periodic rotation in order to prevent stress. Mr Olivares is the only worker in this role not to have been rotated. When he asked why, the company told him that since he was in the trade union they would need a permit from the Ministry of Labour to move him. He checked and this was not the case. Mr Olivares described how the company's attitude towards him changed radically when he joined the union, "The coordinator began pressuring me ... I went from being well evaluated to being able to do nothing right". The effect on his health was dramatic: "I got gastritis, because of that pressure ... I dropped 12 kilos in weight in 3 months, so much that the medics thought I had stomach cancer. Thank God, all the exams since then seem to show it was caused by stress."

After the bulk of the workers had resigned from the union the coordinator moved on, and now, although Mr Olivares is still not being rotated, his situation has improved somewhat. Other unionised workers with previously clean work records described how after joining the union they began to receive sanctions from their supervisors.

Mr Olivares also described how a work colleague and friend suddenly stopped talking to him. After several months he asked colleagues why this might be and they told him that she had been told to disassociate herself from him if she wanted to be promoted. He then managed to ask her about this situation himself and she confirmed to him that she had been told in a meeting with management that she should no longer associate with him if she hoped for future promotion.

These ways of isolating union members are clearly aimed at limiting their ability to organise, but also at punishing them and incentivising them to leave the union. One former union activist, José Ignacio, was twice offered benefits in return for his leaving the union.²³ The first time shortly after he joined the STPC in 2012, the second in February 2015, when the supervisor of the couriers said to him: "You still isolated out there? Leave all that union stuff and I'll bring you back here."

Dismissals of Remaining Union Members

Jhon Gamboa, a former DHL employee, described being fired the same day he was due to join the union. Although the reason given was legal and based on faults committed by the worker, these were no worse than those committed by other workers, and therefore the suspicion remains that, as is common in Colombia, the underlying motive for his dismissal was his move to join the union.

As was reported in one case in Chile, in Colombia a union member had a relative working for DHL fired. José Ignacio joined the STPC union in 2012, his son worked for DHL in Firmenich SA, a Swiss fragrance and flavours producer. When the son was being fired managers told him that Firmenich had requested he be replaced because of mistakes he had committed. They said they had investigated these complaints and found them to be true. The son then approached his former manager at Firmenich who had supposedly signed a letter asking for him to be fired. This manager said he had no knowledge of any letter, and underlined that the only letter he knew of was one that had come from head office in Ecuador congratulating him for his efforts. This manager said, "It's DHL that wants to fire you". José Ignacio and his son asked to see the report of the investigation that DHL said had been carried out, but so far no evidence has been produced to justify the young man's dismissal.²⁴

In the case of another worker, Flavio Guzmán, who was fired before being rehired by the company, thanks to a successful legal action by the union, his dismissal was linked to his conversing with a known union activist. Since the two were not known to be friends, this raised the suspicions of the supervisors and the following day Flavio received a letter firing him.

A further indication of DHL's apparent anti-union position can be seen in the struggle for the union to get a noticeboard in the workplace. The STPC had won the right to have a noticeboard in the company offices. When the SNTT took over, the union asked to take over this noticeboard, but the company said no. The union won a court order that instructed the company to allow the union to have a noticeboard in the offices, and the company was forced to do so. However, while initially the board was at the entrance to the changing rooms, it was subsequently moved to outside the cafeteria, and then to a place within the administrative part of the building where few of the couriers go.²⁵ One worker claimed that the company has a noticeboard next to the union board and makes efforts to counter information put out by the union.

²³ José Ignacio has since left the SNTT because of differences with the way the union was working in DHL. He has not received any benefits or been moved back to the main workplace.

²⁴ Interview with José Ignacio.

²⁵ This testimony is from someone who works in the complex.

Intimidation Through Surveillance

José Ignacio described how when he had been the union organiser during the summer of 2014, the former Head of Security, who had just been fired by DHL, approached him and told him to be careful because the company had microphones in the locker rooms and in several of the vehicles in order to keep an eye on union activists. According to Jhon Gamboa this news was “very intimidating”. The workers interviewed stated that this surveillance means they don’t talk about the union or other sensitive issues with colleagues. Diego Olivares reported being followed and photographed by strangers and felt “very intimidated”.

As well as these repressive and heavy-handed methods of undermining the union, DHL also has several ‘carrots’ with which to attempt to influence the workforce. Couriers reported earning about 1,200,000 pesos a month (about US\$363, €303), but with the various bonuses and incentives in the gift of their managers, can make 2 million (about US\$604, €555).

Working Conditions

Workers reported feeling very pressured at work. Jhon Gamboa said “It isn’t DHL Express, it’s DHL Stress” (“No es DHL Express, es DHL Estrés”). Pressures were exacerbated when routes were arbitrarily changed or workers were made to cover other routes without any induction or training – which tended to happen if they joined a union. These changes led to their inability to fulfil their quotas and a subsequent loss of bonuses. Workers did not feel the company protected them from the vagaries of working on the road. Flavio Guzmán was locked in a garage by a customer and was subsequently delayed on the rest of his route – when he complained about the person who had locked him in, the individual accused him of being abusive, even though CCTV footage showed him remaining calm. Despite this, DHL took the side of the customer.²⁶ Others reported that the company policy was to deduct lost or stolen money from workers’ pay – with an underlying assumption that if workers were robbed they were probably involved in the theft.²⁷ José Ignacio had to pay almost a million pesos after he was robbed while working. Workers also reported that other workers with chronic work-induced injuries that restrict their ability to work are eventually fired, and that there is therefore significant pressure to conceal injuries.

Problems often arise whenever workers try to overcome arbitrary injustices, as occurred in the case of Jhon Gamboa, who was assigned a highly unusual split shift. This split shift meant that he was obliged to sit in the office for three hours in the middle of the day (since home was too far to go to and return from during this time). He was not paid for this time. Mr Gamboa raised the matter with his supervisor and was promised a change, but his shift was never altered. When Mr Gamboa was later fired (with the suspicion being that he was fired for having joined the union) the split shift he had been made to work was simply removed. For him, DHL’s position was clear: “They took reprisals against me, and they didn’t have the correct behaviour towards me.”

²⁶ Interview with Flavio Guzmán.

²⁷ Interviews with Diego Olivares, Jhon Gamboa.

The EOS and Other Forms of Internal Communication:

All the workers interviewed expressed high levels of cynicism towards the EOS and other forms of communication between workers and management. Workers either felt that the EOS was honestly filled out but did not serve to change things, or that it was manipulated by management and lacked true transparency and anonymity. José Ignacio also underlined how couriers are not always able to fill out EOS surveys because they work under time pressure. Workers did not believe that the survey results accurately reflected the reality of the company. Flavio Guzmán’s testimony was typical: “It’s like a broken telephone. That stuff doesn’t reach the top bosses, just supervisors or the Operations Manager. But if you talk then they begin to target you ... They are always right, and there’s never a solution to the problem.”

Dissatisfaction with the EOS was also mirrored by equal dissatisfaction with the visits of company officials from Germany. Workers claimed that management chose those workers who would speak to company officials, although Diego Olivares, one of the union members, was chosen to talk with two visitors as part of a larger group. However, he suspected that the translation was not accurate because the interpreter was a DHL employee, who teaches English in the company. Whether the translation was accurate or not, it is expected that the perception that the interpreter was not a disinterested neutral would have affected what workers told the foreign visitors.

A Culture of Favouritism

As identified by the interviewees, the level of arbitrariness and workers’ fear of raising their voices promotes a culture of favouritism within DHL in Colombia in which supervisors arbitrarily decided who was promoted or received bonuses.

Conclusion: Colombia

DHL in Colombia operates in an overtly anti-union context, where the physical and political repression of trade unions has been common for decades. Over time, a highly anti-labour legal framework has also been developed, alongside a political bias against trade unions. Within this context, in order to abide by its own Code of Conduct and the international conventions it refers to, DHL would arguably need to support trade unionism in order to counteract the prevailing anti-union environment. In fact the exact reverse is the case.

Far from developing a positive and constructive engagement with either the STPC or SNTT, DHL in Colombia has instead developed a relatively sophisticated anti-union policy that takes advantage of its carefully nurtured reputation and a national environment within which labour conditions and wages are routinely extremely poor. The company seeks to generate a positive image for itself through wages that, relatively, are better than these, and by utilising a system of benefits and bonuses – such as offering workers free tickets to the circus, as had occurred

the week before the interviews took place. This strategy, according to one labour lawyer interviewed, gives the company significant margin for manoeuvre. Workers at DHL are unprotected against the often-arbitrary decisions of supervisors, and union members are systematically repressed through dismissals, isolation, loss of income, surveillance, and loss of access to benefits and bonuses.

DHL has carried out an active policy of destroying workers' organisation within the company. This policy is overtly repressive. DHL Express has not been open to dialogue with the workers' trade unions, despite its claims. Former supervisors at DHL have spread false information about the union, which results in events such as that witnessed by the author of this report when, during one interview, a worker received a phone call from a DHL colleague who was off sick and was worried about losing his job. The interviewee advised the worker to join the union and seek assistance. The response from the other end was that the worker had been told that if he joined the union he would lose his bonuses.

CONCLUSION

Deutsche Post DHL prides itself on being an excellent employer and on abiding by a Code of Conduct that enshrines ILO Conventions 87 and 98 on freedom of association, and the rights to organise and to collective bargaining. This commitment should make it a beacon of good conduct in Latin America. Sadly, the evidence from the workers interviewed for this report paints an overwhelmingly different picture.

DHL's Code of Conduct is not applied in these three countries. Therefore only two conclusions are possible:

1) There is a systemic incentive to ignore the Code of Conduct which originates directly from DP DHL headquarters in Germany

or

2) DHL management in Latin America have an anti-union 'subculture', in violation of DHL's own Code of Conduct, that is known of and tacitly approved by DP DHL headquarters in Germany

If the former is the case then it raises grave questions about DHL's honesty and commitment to human and labour rights – at every level, including the very top. If it is the latter then it seems that DHL's top management have adopted a 'see no evil, hear no evil' approach, ignoring malpractice and choosing not to question regional management so long as profits continue to be made. This raises serious questions about the relative importance DHL headquarters accords to profits on the one hand, and ethical and socially responsible forms of doing business on the other.

Although there are differences from country to country, and between the ostensibly separate companies that make up DHL in each country – DHL Express, DHL Global, DHL Supply Chain – overall testimonies paint a picture of companies that do their utmost, operating either illegally or on the margins of the law, to avoid the organisation of their workforces, often painting trade unions as the enemy of the company. DHL employees, particularly unionised workers, are often subjected to arbitrary treatment amounting to discrimination. Moreover, in two countries workers mentioned corrupt practices carried out by management in violation of local laws and the DHL Code of Conduct.

DHL's vaunted internal communications systems, including the Employee Opinion Surveys, are simply not taken seriously by workers, and in all three countries workers reported that in the wake of unionisation DHL companies began to implement changes fought for by trade unions only as a way of countering the unionisation of the workforce. In all three countries local management is accused of manipulating the information presented to visitors from the company's headquarters in Germany.

Put simply, in these three countries, DHL has grievously and systematically failed to live up to international standards, as well as its own procedures, aspirations and promises.