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USLEAP

The fight for an independent union at Johnson Controls, Puebla

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Current Objective

The Organizing Coalition of Workers of Johnson Controls (COT-JC) in Puebla, Mexico is seeking a meeting with management from Johnson Controls Inc. in Milwaukee, WI to discuss the demands listed below and more importantly to ask the company to maintain a policy of neutrality towards the coalition and their organizing efforts.

The Coalition's key demands are:

- Reinstatement of all eight unlawfully fired workers
- Support and endorse a meeting between local management in Puebla and the coalition (COT-JC)
- Recognition of the coalition (COT-JC) and/or new union
- Respect for freedom of association
- Allow workers a free, private, and fair vote to choose their union representative
- Allow voting to take place free from intimidation and retaliation
- End mistreatment of pregnant workers
- Correct health and safety violations
- Eliminate the "bank of hours" so workers can take paid vacations
- Payment of profit-sharing as required by Mexican law (according to the company's fiscal year)

After a July 2009 intervention from the U.S. Labor Education in the Americas Project (USLEAP), JCI finally responded to the Coalition's February 2009 letter, stating the allegations made by COT-JC were "untrue" and failed to acknowledge the coalition's request for a meeting.

Background

Milwaukee-based Johnson Controls is the largest private company in Wisconsin. It has three plants in Puebla, Mexico that produce seats and seat parts, principally for the Volkswagen assembly plant in Puebla, but also for Chrysler, Ford, Mercedes Benz and Nissan. Workers at the FINSA plant have organized the Organizing Coalition of Workers of Johnson Controls. This plant does the final seat assembly, was opened in 1994 and as of April 2010 has about 600 workers, the majority of them women. Salaries range from US\$96 to \$120 per week.

Violations and Complaints

About 20% of the workers are hired through a temp agency, One Digit. These workers receive lower pay and benefits, although they perform the same work as Johnson Controls employees in production areas.

Workers have *numerous complaints about wages and working conditions.* While wages are relatively high for the auto parts industry, they are far from adequate to cover the cost of living. In addition, the company has shorted workers on bonuses and profit-sharing payments (which were reportedly only \$500-800 in the last two years). The biggest complaints are about the “bank of hours,” implemented in February 2007, which allows the company to “bank” overtime hours when production is high and then repay them later as regular time when production softens – meaning the workers lose the overtime. The company also implemented a system of four 12-hour shifts in May 2007. The current 12-hour shift in place since October 2009 is from 6 AM to 6 PM and workers are only allowed a one-hour break.

Workers have documented numerous *violations of Mexican health and safety regulations,* including non-functioning ventilation systems that allow fibers to disperse throughout the plant, failure to label toxic chemicals, lack of protective shields on equipment, and the company’s failure to provide adequate safety equipment.

There are numerous reports of *gender discrimination.* In 2007, workers complained about surveillance cameras in the women’s locker room and it was only after a public denouncement covered by local media that the company removed them. Eight pregnant workers were fired on October 26, 2007, in violation of Mexican labor law. The Worker Support Center (CAT), a local NGO, has documented 3 cases of pregnant workers who were required to work 12-hour shifts, standing the entire time and later suffered miscarriages. Pregnant workers at the FINSA plant are required to wear different color clothing indicating their state of pregnancy and while the company states this is a safety precaution, these workers are still expected to work under the same conditions and meet the same quotas as other workers, including overtime work. The company claims there are no reports of sexual harassment, however, workers assert they have taken these complaints to the human resources department at the plant only to be ridiculed and dismissed by the HR representative.

Protection Contract Union

The Johnson Controls FINSA plant is covered by a collective bargaining agreement with the Tlaxcala section of the CROM, a Mexican union frequently used by employers to establish a “protection contract,” used by employers to keep out independent unions. Workers are typically unaware of the existence of a protection contract until they start to organize an independent union. While the CROM has a delegate in the plant, workers have no ability to elect their leaders, participate in bargaining, or otherwise have input.

Workers report they do not have a copy of the union by-laws or collective bargaining agreement. The only available copies of the collective bargaining contract are from 2005 and another dated September 2008 was posted inside the plant behind a glass-covered bulletin board in May 2009. They also say the union has never consulted them or taken any action to oppose the bank of hours, 12-hour shifts, or other measures imposed by the company. (These are common complaints for workers under Mexico's "protection contract" system.)

In October 2006, a group of FINSA workers began to meet with organizers from the CAT to discuss their grievances and the union's failure to respond. Over the next few months, as the workers studied labor law and read contracts from other plants, the workers developed an organizing committee of leaders who visited other workers in their homes in rural communities and talked about the idea of a democratic union. The workers formed the Organizing Coalition of Workers of Johnson Controls, which currently has 30 members and some an active base of supporters in the plant.

The company and the CROM got wind of the organizing and held an assembly to warn the workers not to disclose any "confidential" information about the company. In June 2007, the CROM for the first time said that it would form a negotiating committee for upcoming collective bargaining, presumably in response to the unrest among the workers.

On July 12, 2007, seven workers (one of whom was not involved in the organizing) were called into the Human Resources office and told they were being fired, at the request of the CROM, because of their organizing activities.¹ A year later, the workers settled their case for three times the legally required severance pay (an unprecedented amount in Puebla).

In July 2008, Johnson Controls fired another eight members of the coalition. Three of these workers filed lawsuits demanding reinstatement. In December 2009, the Federal Labor Board set a hearing for April 6, 2010 to dictate when these workers would be reinstated. The Labor Board gave no explanation of the delay in implementing the reinstatement order. At the hearing, company lawyers tried to settle before entering the courtroom, but all eight workers refused to settle and expressed their desire for reinstatement. Citing a technicality regarding the calculation of back wages and worker salaries, the Labor Board postponed hearing for reinstatement once again, until July 1. Even if the workers eventually win reinstatement, it is likely that if the workers are reinstated they will be fired again unless JCI management makes a firm commitment to allow them to return to work and assure their employment stability.

In October 2008, federal and state labor authorities conducted wage and hour and health and safety inspections of the plant in response to public demands from the Coalition. The

¹ The CROM contract contains an "exclusion clause" that requires the company to fire any worker who is expelled from the union. This practice continues despite having been held unconstitutional by the Mexican Supreme Court. Moreover, the Federal Labor Law stipulates that workers can only be expelled by a 2/3 vote of a membership meeting where they have the right to speak in self-defense. There is no evidence that these procedures were followed.

inspections identified – 18 serious violations, four of which required immediate sanctions. Despite repeated requests, the workers have not been given a copy of the inspection report.

In February 2009, the International Metalworkers' Federation filed a complaint against the Mexican government with the Committee on Freedom of Association of the International Labour Organization (ILO) using the FINSA plant of Johnson Controls as a case study.

Economic Crisis and Dismissals

At the beginning of December 2008 there were approximately 775 workers on the payroll, including “temporary” employees of OneDigit. In response to the global economic crisis, the company laid off most of the OneDigit workers and began temporary shutdowns in different production areas in mid-December while continuing to pay workers 50% of their base salaries.

From February 2009 to April 2009, nearly 300 workers were dismissed, most of who have over 10 years of seniority. Included in the first group are four members of the Coalition who refused to accept severance pay. At the beginning of April 2010 there were 600 workers of whom approximately 200 worked for OneDigit.

The motive for these dismissals is questionable for three reasons. First, Johnson Controls was the successful bidder to produce seats for the Volkswagen Bora/Jetta Model A5-A6. In fact, several of the fired workers were told they would likely be hired (as new employees without seniority) for this production. Second, employers throughout the auto parts industry have been receiving federal and state aid to maintain workers at 50% of base salary, precisely to avoid firings. Volkswagen has not fired any permanent employees. Third, Johnson Controls fired permanent workers with many years of seniority while keeping “temporary” workers from OneDigit on the payroll. It thus appears likely that these dismissals are at least in part a pretext to eliminate the independent union organizing campaign.

Mineworkers Organizing Campaign

In late 2009, JCI workers at the plant began signing affiliation cards with the National Union of Mine and Metal Workers of the Mexican Republic (SNTMMSRM). The SNTMMSRM is a national union representing workers in the mining, steel, and auto parts industries. It has a strategic partnership with the United Steelworkers (USW) and is affiliated to the International Metalworkers' Federation (IMF) and the International Confederation of Chemical, Energy, Mine and General Workers' Unions (ICEM).

Under Mexican law, in order for the SNTMMSRM to represent the workers it must file a legal demand for control of the collective bargaining agreement (*titularidad*) with the Federal Labor Board in Mexico City. The Board must then conduct an election (*recuento*) in which the workers choose which union they want to represent them.

However, Mexican labor boards have a long history of using legal maneuvers to block organizing efforts by democratic unions.

This January, the CROM became aware of the Mineworkers organizing campaign and sent several officials to the plant. The CROM officials threatened the workers that if they were seen talking to anyone from the COT-JC, CAT, or the Mineworkers they would “suffer the consequences.” Workers report that they are under constant surveillance both inside the plant and out. Local communities in Tlaxcala will not open their doors to COT-JC workers out of fear of being reported.

Additionally, at the end of January, the company began hiring workers from communities where the CROM has a strong presence. The COT-JC believes that these workers are now being hired to dilute the union’s strength in an election. The majority of the workers being hired are young women many of them single mothers. Some have reported to both the COT-JC and CAT that during their orientation meetings in the presence of plant management, the CROM has told them they cannot talk to anyone from the Coalition or the CAT if they want to become permanent plant workers. The Mineworkers and CAT are planning a number of actions to keep morale up, focusing on profit-sharing payments and negotiations for the renewal of the CBA, which are coming up in May.