

Creating conditions for collective labour relations to improve labour rights in the electronics industry

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INTRODUCTION

Global electronics production is undergoing unprecedented expansion, creating many thousands of jobs in developing countries. But the jobs that are being created are characterised by low pay, substandard working conditions, excessive working hours and are only offered as short term contracts, often via employment agencies. The majority of workers engaged in electronics production today are young women.

The challenge for unions is to find a means to engage with electronics companies to improve conditions for workers, yet many factors militate against this possibility. These include a traditional hostility to unions by the major companies in the sector, the structure and complexity of electronics supply chains and employment relationships that are generally short and increasingly indirect.

This paper explores the obstacles to collective labour relations in the industry, describes how companies, trade unions and non-governmental organisations (NGOs) are responding to labour rights violations and proposes potential avenues for engagement between trade unions and the brand companies, manufacturers and suppliers that can be used to improve working conditions.

CONTRACTING OUT LABOUR RIGHTS

Up to 75% of global electronics production has now been outsourced from Original Equipment Manufacturers (OEMs) or brand-name companies such as Hewlett Packard, Dell and Apple, to contract manufacturers (CMs). At this level of the industry there is significant market concentration, with five major CMs producing electronic products for all the major brands.

Despite being for the most part unknown to the general public, the largest CMs are themselves major multinational companies that have seen extraordinary growth. Flextronics increased its sales by a factor of ten between 1997 and 2005, while the largest CM, Hon Hai (Foxconn), went from sales of \$2,800 million in 2000 to \$16,000 million in 2005 (ILO 2007) and now employs over 230 000 workers, the majority of them in China. Its revenue for 2006 topped \$40 billion (Hayter 2008).

A major element of the CM strategy to attract business from the OEMs is to locate in countries where wage costs are lower; Flextronics claims to save its clients 75% on labour costs. Consequently, the search for low cost manufacturing locations has led the CMs away from North America and Western Europe, where there have been numerous plant closures, towards countries in Eastern Europe and Asia. As competition to take over manufacturing for the OEMs has intensified, production has moved from countries that were once considered sufficiently low cost, such as Mexico, to ever cheaper destinations (Ross, 2002).

Not surprisingly, the race to drive down labour costs has given rise to reports of widespread abuse of international labour standards, both in the CM companies themselves and further down the supply chain (CAFOD 2004, SOMO 2005). Typical conditions include below subsistence wages, excessive working hours, forced overtime, temporary contracts, no job security, unsafe working conditions and degrading treatment.

A report on labour practices in the industry in Mexico cites the excessive use of employment agencies; indiscriminate temporary hiring; pressuring workers to sign resignation letters; and the effective abandonment of historically established social benefits such as annual leave, severance payment, maternity benefits and profit sharing as practices expressly designed to lower labour costs (CEREAL 2007).

BARRIERS TO COLLECTIVE LABOUR RELATIONS

Organising workers into trade unions is a first step towards developing collective labour relations, yet the absence of unions is characteristic of an industry that has always actively resisted attempts by its employees to form unions. Today, attitudes towards unions of the mainly US-based OEMs that dominate the sector have not changed and this anti-union philosophy is echoed in the CMs which have taken over the employment of electronics production workers from the OEMs.

Only a handful of CM plants worldwide have any union presence. Reports abound of workers losing their jobs and being put on an employment 'black list' for attempting to organise (Schipper & de Haan 2005) or being told not to join a union or engage in any union activity (Wilde & de Haan 2006). In Mexico, employment agencies routinely screen jobseekers for family ties to trade unionists and companies expressly prohibit workers from joining trade unions (CEREAL 2007).

The most radical cases of employer opposition to union membership are found inside Export Processing Zones (EPZs) where electronics manufacturing facilities are increasingly located. Physical barriers in the form of fencing, gates, guards and razor wire prevent union organisers from making contact with workers (Holdcroft 2009). An absence of trade unions, and the attendant pressures to improve wages and working conditions, is indeed one of the factors that attracts companies to locate factories in EPZs. It is generally acknowledged that governments lack the will or the ability to enforce labour laws in EPZs (Amengual 2007), and have an interest in keeping EPZs union-free as a means of attracting foreign investment. In Malaysia, the government has long prevented the formation of national electronics unions (Ferus-Comelo 2006).

The precarious nature of temporary contract and agency work that dominates employment relationships in the sector constitutes an additional obstacle to electronics workers forming unions, for the same reasons that such workers the world over remain un-unionised: temporary workers have no guarantee of remaining in the workplace for an extended period (although many in fact do); agency workers have an indirect employment relationship with the company they work for; legislation or union statutes prevent contract workers from joining the same unions as the permanent workforce; unions find it hard to make contact with such workers who are likely to be on different pay and conditions from the permanent workforce; and, perhaps the biggest barrier of all, workers' fear of loss of current or future employment.

There is ample evidence that employers deliberately favour young women workers, drawing on stereotypical assumptions that they will be 'nimble fingered', 'meek and docile' and have modest expectations of wages and conditions (Ferus-Comelo 2006). They are also less likely to join trade unions. Migrant workers, both internal and external, are similarly preferred for much the same reasons.

COMPANY RESPONSES

The OEMs in particular are coming under increasing pressure to clean up the abuses in their supply chains. A recent series of high-profile consumer campaigns (MakeIT Fair, High Tech – No Rights?, Clean Up Your Computer) coupled with pressure from

shareholders via responsible investment groups have increased awareness of the vulnerability of high profile brands to negative public perceptions of working conditions in their supply chains. The standard response from OEMs has been to encourage, with differing levels of enthusiasm, their suppliers to abide by the companies' own, unilaterally developed, codes of conduct.

In the few companies where active monitoring of code implementation is attempted, it is carried out by the OEM itself (mostly by means of self-assessment questionnaires) and occasionally by third party auditors. The weaknesses of company-driven models in improving labour standards have been widely canvassed (Amengual 2007). These include the questionable credibility and reliability of self-assessment and the tiny percentage of factories in the supply chain that the OEMs are actually able to audit and report on. The OEMs also like to claim that they can only be held responsible at best for conditions in their first tier suppliers, which they rely on in turn to impose standards on suppliers below them in the chain.

This company-driven CSR approach has proven inadequate both to raising standards and sustaining them and to providing credible evidence of improved performance to campaigning groups. Electronics production workers themselves have no involvement in monitoring or implementing labour standards as collective labour relations are virtually non-existent. Trade unions and NGOs have repeatedly criticised the companies for this failure to seek the views of workers on the implementation of their codes, but to date no effective strategies have been developed to address this.

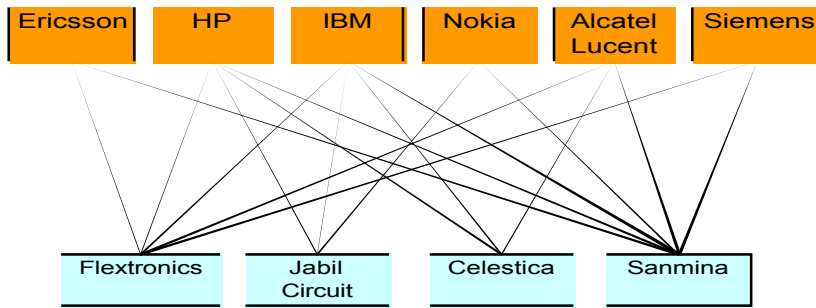
Despite the myriad codes of conduct active in the electronic industry that contain at least some reference to freedom of association (albeit in most cases falling short of the standard set by ILO Convention 87), there is no evidence of implementation of company codes successfully addressing breaches of freedom of association or promoting a climate that is less hostile to workers wanting to join a union. In 2008 the Danish Commerce and Companies Agency conducted a study with Hewlett Packard on how small suppliers could be targeted in supply chain management. While the study usefully identified some of the obstacles to code implementation in small, second tier suppliers, it also demonstrated a generalised lack of understanding of freedom of association and its recognition. Despite the fact that no unions were encountered during the study and information on unionisation was not systematically sought, the study nevertheless concluded that 'All companies comply with the legal requirements pertaining to freedom of association' (Danish Commerce and Companies Agency 2008).

Creating conditions for worker participation through unions is vital to improving labour standards. The challenge is how to achieve this in an industry that has traditionally been hostile to organised labour.

INDUSTRY-WIDE APPROACH

There are strong arguments in favour of taking an industry approach to improving labour rights including freedom of association. The OEM companies have their brand name reputation to protect and are vulnerable to exposure by NGOs of working conditions in companies that supply to them. Yet supply chains in the industry are complex with a high degree of overlap – in many cases a number of OEMs are supplied by the same factory.

Figure 1 Example of supplier relations



This makes it practically impossible for a single OEM to successfully implement its code of conduct in a factory supplying multiple OEMs that themselves have varying levels of commitment to code development and implementation.

OEM companies attempting to audit working conditions find factories quarantining production for that specific brand and making necessary improvements to meet the requirements of that particular company code, while making no improvements in other areas of the factory that produce for other brands.

Lead companies in the industry have long recognised the need for a coordinated approach and in 2004 joined forces to create an Electronic Industry Code of Conduct (EICC), now rebranded as the Electronic Industry Citizenship Coalition. Unfortunately, the industry code agreed by EICC members does not meet the ILO standard on freedom of association, nor does it include any right to bargain collectively. This issue has proven to be especially controversial within the EICC, leading to forceful and sometimes divisive debates, but so far to no changes in the code. Meanwhile, individual companies including Hewlett Packard and Philips have adopted codes that are closer to the internationally-recognised standard on freedom of association. Certainly there are many reasons for this collective wariness of freedom of association, but the US government's continuing failure to ratify ILO Conventions 87 and 98 is surely an influencing factor in the attitudes of the US-based OEMs.

These tensions around the issue of freedom of association reflect and expose the different inherent interests that motivate OEMs and CMs to join EICC and sign up to the industry code. The OEMs have a common desire to improve labour standards in their shared supply chains, yet such cooperation is complicated by their status as competitors with differing expectations on a range of issues including the code standard, the degree of active monitoring that they are prepared to conduct and the desired result of code implementation. As for the CM members of EICC, on the one hand they are multinational companies, bound to apply the code to their own suppliers and subcontractors, while on the other they are themselves suppliers, reliant on the OEMs' business and required by them to apply the code. Add to this the complexity of supplier relations in the industry and the interdependency between the companies, and the result is at best an uneasy collaboration.

DEVELOPING COLLECTIVE LABOUR RELATIONS

Understandably, there continues to be a strong desire by the lead OEMs to regulate conditions at industry level. What is less well understood is that such an approach necessarily implies the development or strengthening of national electronics unions.

An important obstacle to dialogue between the industry and organised labour on freedom of association, collective bargaining and the role of unions in the workplace is that the companies have very little experience of the processes and structures of industrial relations. In the vast majority of cases, the companies have never been unionised, individual managers have not been exposed to unions during their careers and have had no direct experience of positive union-management relationships in their industry.

This makes the task of demonstrating the positive benefits of a unionised workforce that is aware of and able to exercise its rights at the same time more difficult and more urgent. Positive models of mature industrial relations whereby electronics workers are members of national unions and engage in collective bargaining on wages and conditions with their employer are few and far between in the sector. The greatest incidence is to be found in the European operations of European companies where workers are directly employed: a category of electronics production employment which is rapidly vanishing.

There is an urgent need to promote a greater understanding of the international architecture of labour standards and to encourage and develop positive models that demonstrate the benefits of collective labour relations in a sector that has scant experience of this. In both these endeavours, the involvement and assistance of the International Labour Organisation (ILO) is critical.

What the ILO can offer

In April 2007, the International Metalworkers Federation (IMF) and ten of its affiliated unions participated in the ILO's tripartite meeting on 'The production of electronic components for the IT industries'. Given the low levels of unionisation in the electronics industry, many of the companies that attended the meeting came face-to-face with unions for the first time. Not unexpectedly, pronounced differences emerged between the participating US companies and the European companies on their understanding of social dialogue and the role of trade unions.

The conclusions from the meeting, although watered down by the customary compromises that enable worker and employer representatives to arrive at a consensus in the ILO context, nevertheless provide a basis for future measures to improve social dialogue in the industry. Inter alia, it was agreed that 'The ILO should continue to expand its efforts in the framework of Decent Work Country Programmes to improve working conditions in the sector by making use of social dialogue and fostering respect of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up, 1998'. The meeting also concluded that capacity building for meaningful social dialogue is crucial and that governments, employers' and workers' organizations and the Office all have a role to play (ILO 2007).

The value of these conclusions as a mandate to the ILO to mobilise its expertise and resources towards encouraging collective labour relations should not be underestimated in an industry where dialogue between companies and organised labour is all but absent at national and international levels. As a result of the tripartite meeting conclusions, the ILO Governing Body decided at its March 2009 meeting to develop activities that promote social dialogue in the industry at country level, that build capacity of trade unions and employers to participate in social dialogue, that encourage the tripartite constituents at country level to develop agreed mechanisms to reduce the amount of temporary and contract employment in the industry and that facilitate improved labour-management dialogue at plant level that can be used to

address the incidence of precarious employment. Activities are scheduled to commence in 2010.

Another opportunity for developing social dialogue in the industry at country level may be provided by the ILO's Better Work program, a partnership with the International Finance Corporation. The main aim of Better Work is to improve labour standards in global supply chains. So far, activities have focussed on the textiles industry where the program's emphasis on developing practical tools to build capacity among managers, unions and government labour administration has resulted in significant progress. There are clear parallels between the textiles and electronics industries, especially in terms of working conditions (including wages and working hours), gender composition of the workforce, levels of precarious employment, labour practices and structure of the supply chains. It is therefore not inconceivable that tools and models developed by Better Work could be adopted in the electronics industry.

A key element in any such activities will necessarily be training that demystifies the practical application of conventions 87 and 98 and confronts the assumption that persists among managers in the sector that admitting a trade union will lead to business closures.

Other available strategies

Many years of high profile campaigns against labour abuses in sweatshops have spawned strategies to improve standards in textile, clothing and footwear supply chains. The International Textile, Garment and Leather Workers' Federation (ITGLWF) has had extensive experience working with these strategies, many of which involve actors other than the companies themselves. Examples include multi-stakeholder initiatives such as the Ethical Trading Initiative (ETI) and the Multi Fibre Agreement Forum (MFA Forum).

In the electronics industry, despite similar labour problems in the supply chains, involvement of stakeholders, including trade unions, in strategies to improve labour standards has been limited to invitations to participate in company-led stakeholder dialogue meetings. These meetings are organised in such a way as to enable experiences to be shared, but not to produce concrete agreements to act jointly to address the problems. This attitude of the companies precludes the possibility of genuine participation by unions and other groups in initiatives to improve conditions for workers in global electronics supply chains.

Meanwhile, unions and NGOs concerned with labour rights in the industry have significantly strengthened their cooperation by developing a network and a set of common demands for the industry. Through the GoodElectronics network, the IMF and key NGOs have put a consistent message to the companies that they need to improve their approach to freedom of association and enter into direct dialogue with trade unions. This cooperation will continue to be essential to developing models for worker participation and raising labour standards in the industry.

Notwithstanding the potential for progress to be made through involving stakeholders more directly in code enforcement, which has yet to be tried in the electronics industry, the ITGLWF's extensive experience with codes and auditing has led it to conclude that this approach is in any case inadequate. The global union now strongly advocates moving towards developing mature systems of industrial relations (MSIR) if genuine progress in supply chain labour conditions is to be made (Miller 2009). It has identified critical elements of an MSIR approach, among them the need to rationalise all current codes into one code, encompassing the ILO core labour standards; the replacement of social auditing with mature industrial relations at factory level; and the key role of effective recognition of freedom of association and

the right to organise as enabling conditions. It is interesting to note also that the ILO's guidelines for buyers participating in the Better Work program require them to stop company auditing in areas covered by the program and focus on supporting collaborative improvement planning (Better Work 2009).

Since it considers current social auditing practices to be unsustainable, the ITGLWF is working towards developing genuine global partnerships with stakeholders (Miller 2009). The most promising example so far of such a partnership is the International Framework Agreement (IFA) that the ITGLWF signed with the Spanish multinational Inditex in October 2007. Under this agreement, the company and the global union federation jointly intervene at supplier facilities to resolve violations of the agreement and to train workers and managements in industrial relations.

That IFAs represent an important opportunity for developing a structured approach to social dialogue is as true for the electronics industry as it is for apparel and footwear, yet there are currently no prospects of an electronics MNC entering into an IFA with the IMF, and intense resistance to any proposals to do so. Meanwhile, in other metal manufacturing sectors, the IMF has signed IFAs with a number of multinational companies. In signing these agreements, the companies undertake to pressure their suppliers to uphold the core labour standards of the ILO, including the fundamental rights to freedom of association and collective bargaining. IFAs have been shown to be useful tools for facilitating dialogue between companies and trade unions on labour standards (Papadakis 2008) and would have the additional value in the electronics industry of avoiding some of the pitfalls inherent in unilateral enforcement of company codes.

When the structure of the supply chains and resultant labour abuses are so similar, unions and NGOs that have been demanding that companies take concrete and effective action to improve labour conditions are asking themselves why so many efforts have been made in the apparel and footwear industries while electronics multinationals only pay lip service to stakeholder engagement and continue to rely solely on discredited auditing and self-assessment methodologies.

CONCLUSION

Worldwide, workers engaged in electronic manufacturing in the supply chains of major MNCs are subjected to substandard working conditions, yet are systematically prevented from forming or joining trade unions and participating in collective bargaining to improve their working lives.

Poor labour standards in electronics supply chains are of concern not only to the workers themselves, to trade unions and to NGOs, but to the brand name MNCs that drive the chains that produce their computers, mobile phones, laptops, games consoles and other consumer products. In buyer-driven production chains, it is these brand name MNCs that have the capacity to drive changes through their purchasing decisions (Miller 2008) and bring about tangible improvements to working conditions. Unfortunately, the OEMs choose to put their resources only into ineffective unilateral enforcement of company and industry codes through auditing and self-assessment, rather than confront entrenched resistance to organised labour and adopt more effective strategies that include trade unions.

There is potentially much to be learnt from experiences in the textiles sector in promoting collective labour relations as a means to improve wages and working conditions. In addition, the ILO can play a key role in bringing employers and unions together to discuss joint solutions to raising labour standards.

If the MNCs are genuine about their desire to improve adherence to labour standards in the industry, and not just to improve their image with consumers, then it is

incumbent on them to explore ways to engage with workers through trade unions and adopt a less negative attitude to collective labour relations.

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