BEYOND *CONTRATOS DE PROTECCIÓN*
Strong and Weak Unionism in Mexican Retail Enterprises

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Abstract: As part of a long-standing debate about the extent to which official, government-linked unions in Mexico actively seek to win gains for their members, analysts of labor relations in Mexico have described the dominance of contratos de protección, *collective bargaining contracts that offer little or nothing to workers while protecting employers from real union representation. In particular, a number of researchers have asserted that such contracts are universal in retail. Analyzing forty-one retail collective bargaining contracts from four Mexican cities, I find strong evidence that this is not the case. I find considerable variation in wages and fringe benefits, benefits in excess of the legal minimum in 27 to 68 percent of cases (depending on the benefit), and cases of sustained improvement in contractual benefits. Detailed consideration of the patterns suggests that these contracts are not uniformly protection contracts, indicating that there is strong as well as weak unionism in Mexican retail, including among official unions, but that competitive conditions in Mexican retail constrain the possibilities for strong unionism.*

Corporatist labor relations, in the sense of laws and institutions that protect labor and politically incorporate, subsidize, and control labor organizations, have played an important role in Latin America, both historically and currently (Cook 2007; Zapata 2001, 2005). From the 1930s at least until the 1980s, Mexico offered an extreme version of such corporatism, with the major unions subsumed into a one-party state (Middlebrook 1995).

According to one widespread line of argument about the Mexican case, even in the heyday of import substitution–led growth, this corporatist system primarily served a function of labor control, with privileges for "official" unions but limited benefits for workers (see, for example, Bensusán and Alcalde 2000; Kohout 2008; Roman and Velasco 2006; Xelhuantzi 2006). Liberalization of the Mexican economy beginning in the 1980s has reduced these limited benefits, but control has continued as official unions have maneuvered to maintain the favor of the national government. Increasingly, mainstream unionism has taken the form of *contratos de protección,* "protection contracts" in which unions sign a contract with the employer without making any demands and often without worker knowledge,

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reducing union representation to a legal fiction.[1] Such protection contracts are predominant or even universal in some sectors of the Mexican economy, of which retail is an oft-cited example (Alcalde 1999; Bouzas and Vega 1999; Bouzas and Reyes 2007). The main exceptions in terms of militance and effective bargaining are independent unions not part of the official, government-linked federations.

However, despite wide acceptance of this account, a significant number of researchers have dissented. For example, Roxborough (1984), Middlebrook (1995), and more recently Burgess (2004), Cook (1995), Dion (2010), Kay (2011), Murillo (2000, 2001), and Quintero (1997, 2001) have argued that official unions have in many cases fought for and sometimes won benefits for their members, and that union behavior and bargaining outcomes are quite varied even within the ranks of the official unions.

In this article, I examine Mexican retail precisely because it is viewed as an extreme case of subordinate unionism. I draw on the same data source marshaled by some to make this claim, collective bargaining contracts in the retail sector. I find that contract terms frequently exceed minimum legal requirements, vary substantially across companies, and in some cases have improved significantly over time. These findings favor the dissenting viewpoint, though other explanations of these patterns are possible. I conclude that findings like these call for more careful and disaggregated analysis of union representation behavior and outcomes in Mexico.

MEXICAN UNIONISM, CONTRATOS DE PROTECCIÓN, AND THE RETAIL SECTOR

As noted above, much analysis of unions in Mexico expresses what Roxborough (1984, 1) calls "the standard account," which "sees Mexican trade unions as more or less passive instruments of an authoritarian state" (Aguilar 2001; Bensusán and Alcalde 2000; Blanke 2007; de la Garza 1993, 2001, 2003; Kohout 2008; Paredes 2001; Roman and Velasco 2006; Xelhuantzi 2006). The standard account follows Zazueta and de la Peña (1981) in dividing Mexican unions into official (state-dominated) unions, independent unions, and *sindicatos blancos* or employer-dominated unions. Official unions are those linked to the state. They chiefly consist of unions making up the Labor Congress (CT), a multiconfederation formation that until 1995 was formally part of the Institutional Revolutionary Party (PRI), which ruled for seventy-one years. Independent unions fall outside the CT. The leading federation within the CT is the Confederation of Mexican Workers (CTM). Overall, official unions have been and remain dominant: a 1980 accounting found official unions making up 74 percent of unions (including 84 percent of unionized workers), with independent unions at 12 percent and the remaining 14 percent company unions (de la Garza 1993); a follow-up using 2000 data (but without membership counts) found that official unions' share had risen to 81 percent, with independent unions inching up to 13 percent and com-

1. I use the more literal translation, "protection contracts," rather than the more idiomatically accurate US usage "sweetheart contract."

pany unions dropping to 3 percent (de la Garza 2003). The government controls unions via a number of mechanisms enshrined in Mexican labor law. To represent workers, unions must register with federal or state governments and must gain periodic reapproval of the registration; governments regularly withhold registration or approval of uncooperative unions. Strikes must be approved and disputes resolved through the Local Labor Relations Commissions (Juntas Locales de Conciliación y Arbitraje), tripartite bodies that include representatives of employers, government, and (invariably) the official unions. The standard account holds that during Mexico's import substitution phase, in return for delivering votes, moderating wage demands, and maintaining labor peace, unions were granted input into growth, employment, and wage-setting strategies and access to patronage resources (such as government-controlled housing and pension funds). Workers got less but still received some benefits: strong (though unevenly enforced) basic labor protections and relatively steady income growth. On this standard account, only independent unions questioned the terms of the exchange (Bensusán and Alcalde 2000; de la Garza 1993, 2003; Greer, Stevens, and Stephens 2007; Hathaway 2002; Kohout 2008; Xelhuantzi 2006).

The early 1980s breakdown of the import substitution model, the PRI's shift from a corporatist structure (organized by functional sector, including the unions as a sector) to a territorial one, and the transition to a multiparty system challenged this symbiotic relationship between government and official unions. However, in what I would characterize as an updated standard account, the analysts cited above have argued that a modified version of the same exchange remains in place. Government continues to get wage restraint and labor peace, official unions collect dues and control diminished patronage pools (though they no longer have a say in economic policy), but workers receive few, if any, economic benefits from the system. In short, the major unions continue to act like "official" unions in their relations with government and employers but now do even less for workers than before.

In particular, researchers have pointed to the increased deployment of *contratos de protección,* or protection contracts (Bensusán and Alcalde 2000; Bensusán and Cook 2003; Blanke 2007; Bouzas 2002, 2007, 2009; Bouzas and Gaitán 2001; de Buen 2011; Caulfield 2004; González 2005; La Botz 1992; Lóyzaga 1992; Moheno 1999; Ramírez 2005; Xelhuantzi 2000, 2006). A protection contract is one "signed by an employer with a union, or more properly with a person who controls a union registration and who guarantees that the employer can run the business without union opposition or worker demands, in exchange for remunerating the 'union' that offers these services with unions dues, at the least" (Bouzas and Gaitán 2001, 52). Such contracts, in many cases signed without the assent or even knowledge of workers, specify only minimum provisions (sometimes just those required by national labor law). Xelhuantzi (2006) dates the origins of protection contracts to the revolutionary 1920s, and Robles (2007) argues that protection contracts, and indeed the entire structure of Mexican labor law embodied in the 1931 Federal Labor Law, were modeled on Italian fascism. However, a number of analysts argue that the proportion of collective bargaining contracts that are protection contracts has recently grown (Bensusán et al. 2007; Bensusán and Alcalde 2000; Bouzas 2002; de Buen 2011; Cardoso and Gindin 2009, Caulfield 2004, González 2005, Quintero 2005, Xelhuantzi 2000, 2006).

Alcalde (1999, 73) estimated that "more than 90% of collective contracts (CC) are employer protection contracts." Other estimates are similar, ranging from 80 to 92 percent (Barba 2005, Blanke 2007, Bouzas 2002; Caulfield 2004; O'Boyle 2002; Tena 2005). Bouzas, Reyes, and Vega (2009), in a review of a random sample of nonconstruction contracts from the Federal District (Mexico City) Local Labor Relations Council, report that the great majority of contracts offer no provisions other than wages that exceed those guaranteed by law: for example, only 8 percent offer vacations beyond those guaranteed by law, only 4 percent offer vacation pay above the required level, and only 9 percent include a holiday bonus in excess of the legal minimum.

Retail is often pointed out as the site of particularly widespread protection contracts. "Who knows of a single democratic union of restaurants, janitors, offices, or retail stores?," Alcalde asked rhetorically (1999, 73). Alfonso Bouzas and coauthors have highlighted Mexican retail chains Gigante (purchased by Soriana in 2007) and Wal-Mart de México, two of the four largest chains in Mexico, as examples of protection contracts (Bouzas and Vega 1999; Bouzas and Reyes 2007). In both cases, Bouzas and coauthors rely on collective contracts from Mexico City to document their claims. The statistical evidence also suggests that unions have weaker wage effects in commerce than in many other sectors: Esquinca and Melgoza (2006) report that nonunionized workers in wholesale and retail earn 95 percent at the mean and 85 percent at the median as much as unionized ones, a narrower mean gap than all but two others of eight major sectors and a narrower median gap than all seven other sectors.

My work has echoed the claim that collective contracts in Mexican retail are protection contracts (Tilly 2005, 2006; Tilly and Álvarez 2006). In a review of varied data (Tilly and Álvarez 2006), José Luis Álvarez and I described union fragmentation (with separate contracts at each store of a given retail chain, many different unions at a given retailer in different cities, at different retailers in the same city, and in some cases at the same retailer in the same city), a result also reported by Bouzas and Vega (1999) and Bouzas and Reyes (2007). We reported that in cases where we were able to interview workers and managers at unionized stores, most workers and even quite a few managers were unaware of union representation. We even quoted managers who fairly explicitly described their union contracts as protection contracts, such as this former executive of a major chain:

> In Mexico you can have a union which is a paper union. It's really not anything. But you'd rather have it because if you don't have it, then you get another union coming in and when you get two unions fighting, then you're in trouble. . . . So you do have a union but in the past as I'm sure today, whenever we have problems in a store, we notify the six or ten individuals who are starting to really try to make a union, we'll just get rid of them. I guess that's the procedure. But yes, you do have legally a document whereby you say that your union is such and such and really it's a white paper type of deal. It's not only in retailing, but in retailing it's particularly the way.

Interestingly, studies of labor relations in Argentina, another Latin American country with an entrenched corporatist tradition, reveal similar patterns. In Argentina, only 57 percent of workers covered by union contracts are aware of the coverage (Aspiazu, Waisgrais, and Senén 2007). Moreover, in the midst of a recent "revitalization of unionism" in Argentina (Senén and Haidar 2009), the retail union Federación Argentina de Empleados de Comercio y Servicios (FAECyS), has moderated wage demands and eschewed mobilization of its members (Fernández and Benes 2009). And in Brazil, while not claiming that Brazilian unions are invisible to their members, Braga and colleagues have argued that in call centers in particular and to some extent in Brazilian unionism in general, corporatist subordination of unions to government interests persists (Braga 2011; Flores et al. 2011).

However, a substantial number of researchers have challenged the standard account of official unionism in Mexico. Referring to the pre-1980s period, Roxborough (1984, 1) suggested that "rank-and-file insurgency has been a constant feature of Mexican industrial relations and . . . the control by the state over the organized labour movement is far more fragile and subject to contest than appears at first sight." Similarly, Cook (1995, 77) held that "although the labor movement is frequently portrayed as co-opted and subordinated to the state, historically the state-labor relationship has been more conflictive and has involved continuous negotiation over the terms of the relationship." *Longue durée* reviews of Mexican labor history by Roxborough, Middlebrook (1995), and Caulfield (2004) provide evidence for these claims. Moreover, Roxborough examined the activities of three independent unions and six official unions in Mexican auto plants in the 1970s. He concluded that, at least in that period, the official unions were heterogeneous, with two of them joining the independent unions as "militant" organizations, whereas the other four were conservative. Carrillo (1990, 1994), drew similar conclusions about the auto industry, and also about the maquiladora export assembly industry along the US border during the 1965–1976 period.

Some more recent accounts of the same industries suggest that such union militancy came to an end by the 1980s. Bayón (1997), in a more recent study of Mexican automotive unionism, describes the defeat of independent unions, the stifling of militancy, and union behavior that matches up with the standard account (though Bensusán and Tilly [2010] state that Volkswagen's plant in Puebla and the independent union there mark an exception to this pattern). Carrillo (1994) and Quintero (1990) paint a post-1975 picture of compliant unionism and widespread use of protection contracts in the maquiladora sector.

Yet other analyses of these and other industries point to numerous instances in which unions have continued to use militant tactics and extract concessions from employers and the state. Quintero (1997, 2000, 2001) added a study of *maquila* unions in Matamoros to her 1990 work on Tijuana maquila unions, and concluded that while the Tijuana unions remained "subordinate," the Matamoros unions were "traditional" in the sense of taking seriously the mission of improving worker conditions and compensation. Murillo (2000, 2001) synthesized much of the available case study evidence by reviewing five sectors (oil, auto, telecommunications, electricity, and education) as well as the major federation, the Labor

Congress, over the neoliberalizing period of the late 1980s to the early 1990s. She noted union militancy and/or extraction of concessions from the state in four of the six at the beginning of the period, and three of those four at the end (the sector that shifted from militancy to compliance was the auto industry, where she ratified Bayón's description of the suppression of union resistance). Complicating Murillo's picture is that of the three unions putting up a fight from beginning to end, one is an independent union (the teachers' union, though as noted above it has had close ties to the state) and two that became independent (the telephone and electrical workers' unions), withdrawing from the Labor Congress and in 1992 forming the Federation of Unions of Goods and Services Companies (FESEBES), which became today's National Workers' Union (UNT) and smaller Mexican Union Front (FSM), the principal federations of independent unions (see also Bensusán and Cook 2003; Cardoso and Gindin 2009). Cardoso and Gindin (2009), in a more recent overview, cited contention with the government by the Petroleum Workers' Union (in years subsequent to Murillo's summary), municipal unions in Mexico City, and the Miners' Union (SNTMMSRM).

Three broader accounts of relations between Mexican unions and the state bolster case studies that oppose the standard account. Kay (2011), in a large set of case studies of union activism in response to the North American Free Trade Agreement, describes wide variation in the actual practices of unions falling within the official union federations. Dion's (2010) history of struggles over Mexico's social security system documents a consistent thread of official union resistance to scaling back of pensions, especially for government workers—though she notes that union leverage has declined from the 1990s forward. Burgess (2004) suggests that in recent years that very decline in direct political leverage has led official unions to shift toward greater responsiveness to members and action on workplace issues.

Findings of continued and even renewed pressure and militancy by official unions are consistent with statistical evidence on the effects of unionization. Esquinca and Melgoza (2006) find a positive average effect of unions on wages (one that persists across almost all major industries and occupations). Fairris (2003, 2006, 2007), looking only at manufacturing, reports an equalizing effect on wage dispersion and a positive effect on the value of fringe benefits and the amount of job training.

Thus, there is considerable evidence for the updated standard account of compliant Mexican unions and for the widespread use of protection contracts, in retail in particular. However, there was considerable evidence against the earlier standard account, and there are reasons for doubting the updated version as well. Understanding the actual role unions play is particularly important in the context of the recent (late 2012) labor reform in Mexico that scaled back a number of government regulatory protections of workers in place since the 1930s. The case of the retail sector, where to this author's knowledge no case study evidence has shown the existence of unions responsive to workers' interests, is an important one.

In this article, I examine the retail case by drawing on the main empirical source researchers have used to document the reach of protection contracts: collective bargaining contracts themselves. In particular, I review retail collective contracts from three Mexican states and the Federal District to evaluate the evidence for the ubiquity of protection contracts. This sample is not as complete for specific companies in specific regions as are the samples studied by Bouzas and colleagues, but it captures more variation in company (within retail), region, and time period. I am guided by three propositions:

1. Fringe benefits offered under protection contracts should differ little from those required by law (a criterion explicitly stated by Bouzas [2002, 203, and 2009, 49]).

2. Wages and fringe benefits under protection contracts should not differ greatly by company (within a given state, and holding the job constant). This operationalizes a statement by Cardoso and Gindin (2009, 43): "In truth, collective bargaining across most of Mexico is more a form of institutionalized struggle among different union federations for control over the collective bargaining machine . . . than it is a real distributive mechanism. As a consequence, wage levels and the majority of working conditions are deeply dependent on legal minimum standards, and have little to do with market dynamics."

3. Under protection contracts, we would not expect to see contractual terms (other than the nominal wage) change or especially improve over time.

METHODS AND DATA

This research is based on a set of union contracts I collected in the Local Labor Relations Commissions in the Federal District, Guadalajara, and León, Guanajuato (the first, second, and fifth-largest cities in Mexico) in 2004, and Tlaxcala (a small state capital) in 2007. Contracts under local jurisdiction, which make up the vast majority of union contracts, are archived separately by federal entity (the thirty-two states and the Federal District). I requested every current or recent contract for large retailers, especially the four companies of *autoservicios* (hypermarkets) that dominated Mexican retail in that period: Wal-Mart, Gigante, Comercial Mexicana, and Soriana (which subsequently acquired Gigante). When possible, I asked for contracts for small retailers as well. I did not receive a complete set of contracts, but the resulting sample can be considered more or less representative of existing contracts. I received contracts for a total of 41 retail companies: 11 in the Federal District, 8 in Guadalajara, 9 in León, and 13 in Tlaxcala. In all cities except Guadalajara, I obtained multiple contracts over time for some companies, as shown in appendix table 1. I have reported some limited findings from the Federal District, Guadalajara, and León in earlier work; this is my first analysis that includes the Tlaxcala data.

FINDINGS

Union fragmentation

Incorporating the Tlaxcala contracts into the analysis largely replicates the finding of union fragmentation that Álvarez and I reported earlier (2006a), which is also reported by Bouzas, Reyes, and Huerta (2009). I compared contracts for

11 major national retail chains, for which I was able to obtain contracts for an average of 5.75 chains per city. These are the basic findings on fragmentation:

- It is rare for a union to represent workers at more than one chain. There was only one case of a single union representing stores at more than one chain (one CTM union represents some stores at Wal-Mart and at Suburbia, which is owned by Wal-Mart, in the Federal District).
- Conversely, it is relatively common for multiple unions to represent stores from the same chain in the same city. There were four such cases (including Wal-Mart and Suburbia in the Federal District)
- Previous to adding Tlaxcala to the sample, no union made an appearance in more than one city. But in Tlaxcala, three chains share a union with their affiliates in either Mexico City or León.
- For some companies, (notably convenience store chain Oxxo), stores are grouped together in contracts. But in other cases, (notably Wal-Mart and its subsidiaries) there are separate contracts for each branch of a chain in a given city.

In short, union contracts are quite splintered across companies and cities, a finding that suggests weakness.

Cross-sectional variation in benefits and wages

What can we learn about the three propositions? The first two propositions suggest that fringe benefits should not vary greatly and should not differ much from the levels required by law. For the most part, this is true. But consider vacation benefits (tables 1 and 2). Mexico's Federal Employment Law specifies a minimum number of vacation days required depending on years of service. Many companies follow this formula to the letter. But in the contracts I reviewed, 68 percent of the companies offered more vacation days than the legal minimum, far above the 8 percent reported by Bouzas, Reyes, and Vega 2009. Department store chain Liverpool in Mexico City had the fastest rate of vacation accumulation (shown in the final column of table 1), offering four days above the minimum in most years from the sixth year on. A number of other companies had similar formulas. This is a small difference, but a difference nonetheless.

A more striking divergence from the legal minimum is found in the *prima vacacional,* the rate of vacation pay. The law requires that companies pay 25 percent of the normal salary per day for vacation. But the share of companies in my sample offering vacation pay above this minimum was 27 percent, again exceeding Bouzas and colleagues' estimate of 4 percent. Liverpool subsidiary Fábricas de Francia pays 150 percent of the daily salary in year 2, increasing to 230 percent in year 21. It is important to keep in mind that this *prima* only applies to a small number of days per year: thus, the difference between 25 and 50 percent on a base of 8 vacation days (typical in year 2) only amounts to two added days' worth of pay per year. On the other hand, combining Fábricas de Francia's greater number of vacation days with its higher rate of vacation pay yields 15 days of vacation pay in year 2, compared to the legal minimum of 2 days.

Another area of difference is the *aguinaldo,* the annual Christmas bonus. Mexi-

Table 1 Vacation benefits as required by law and found in retail union contracts

Years of service	Required by law	Minimum found	Maximum found
1	6	6	6
2	8	8	8
3	10	10	10
4	12	12	12
5	12	12	14
6	12	12	16
7	12	12	16
8	12	12	16
9	14	14	16
10	14	14	16
11	14	14	18
12	14	14	18
13	14	14	18
14	16	16	18
15	16	16	18
16	16	16	20
17	16	16	20
18	16	16	20
19	16	16	20
20	18	18	20

Source: Retail union contracts from the Federal District (1993–2004), Guadalajara (2001–2004), León (1988–2004), and Tlaxcala (1987–2007).

Table 2 Percentage of companies offering more than the minimum benefit required by law

Benefit	Federal District	Guadalajara	León	Tlaxcala	Total
Vacation days	73	63	44	85	68
Vacation pay	27	25	44	15	27
Aguinaldo	64	75	67	46	61
Aguinaldo of one month or more	55	63	67	23	49

Source: Retail union contracts from the Federal District (1993–2004), Guadalajara (2001–2004), León (1988–2004), and Tlaxcala (1987–2007).

can law requires a two-week bonus. But larger bonuses are common in retail, with 61 percent of companies offering more than the minimum (again, much greater than the 9 percent reported by Bouzas, Reyes, and Vega). Four-fifths of those companies provide an aguinaldo of a month or more. Once more, Fábricas de Francia offers the cream of the contracts: 4 weeks of pay plus 4 weeks of the average commission over the last 12 months for salespeople, and 40 days of pay for others.

There are variations in other fringe benefits as well. For example, varied contracts specify from 1 to 3 days' leave for a death in the family, from 3 to 8 days' leave for marriage, and so on. Some companies also offer bonuses for productivity, good attendance, and the like.

Table 3 Summary statistics on daily wage for basic sales and cashier, 2008 pesos

	Minimum	Maximum	Mean	Standard deviation
Sales wage	37	119	74	18
Cashier wage	16	126	78	31

Source: Retail union contracts from the Federal District (1993–2004), Guadalajara (2001–2004), León (1988–2004), and Tlaxcala (1987–2007). The year wages were reported ranges from 1994 to 2007; all converted to 2008 pesos). In 2008 there were roughly 10 pesos to a US dollar.

Wages vary widely as well. I looked at the daily wage for a basic sales category and for cashiers (one or both are available from the majority of contracts). Results are summarized in table 3. For basic sales, the highest wage was roughly three times the lowest one. The range for cashiers was even greater, nearly eight to one. The standard deviations reveal quite a bit of variation around the mean.

Certainly such differences in pay seem large enough to demand explanation. What of the benefits differences? Bouzas and Vega (1999) dismissed Gigante's offerings in excess of the legal minimum with a shrug, arguing that they are small and make little difference in total compensation. But the cumulative findings reported here cannot be so easily dismissed, for three reasons. First, at the high end, the difference between a bonus of 40 days offered by Fábricas de Francia and the legal minimum of 14 days is nearly a month of pay, which is a significant amount.

Second, we can calculate the average value of these differences from the required minima. To simplify things, let us assume that nonunion retail employers simply offer the legal minimum benefits, an assumption that is surely not far from the truth (and is probably an overestimate if we include the many corner groceries and market stands that do not pay any benefits at all to employees). If we then calculate the added value of the vacation and holiday bonus for companies that differ from the minimum on at least one of the benefits, the average payoff is 3.4 percent in added annual compensation. If instead we average together all the unionized companies, the average gain is 2.2 percent.[2] These numbers are not large, but neither are they trivial. Fairris (2006) found that (in manufacturing) the benefits share of total compensation was, on average, 4.1 percent higher in unionized businesses after controlling for other differences. Thus, simply by looking at three benefits, we have uncovered a union difference similar in scale to what he found.

Third, if we suppose that all retail contracts are contratos de protección, as I suggested in proposition 1, we would not necessarily expect to find *any* deviations from the legal requirements. Thus, we must explain what causes these differences. But before weighing alternative explanations, consider the findings about changes over time.

2. In these calculations I counted contracts for multiple locations of a company (unlike table 2), using this as a crude way of weighting companies with multiple branches. This only adds five observations.

Change in benefits and wages over time

I start by focusing on changes in benefits because such changes are unambiguous, whereas changes in wages are expected and can only be evaluated relative to a hypothetical counterfactual. I reviewed benefit changes for all cases for which I have a run of contracts for more than five years. The results are summarized in table 4, except for the case of the Gigante hypermarket in Tlaxcala, where so many changes took place that I have summarized them separately in table 5. To contextualize the dates in these tables, note that the Mexican economy dipped into recession in 1982, 1986, 1995, and 2001. In the political arena, the administrations of Miguel de la Madrid (1982–1988) and Carlos Salinas (1988–1994) made great strides in liberalizing the economy and weakening government support for unions; the Ernesto Zedillo and Vicente Fox administrations that followed continued this trajectory.

We can note several regularities in this set of changes. First of all, proposition 3 is not borne out: there is a lot of change in contractual terms other than pay. Only Liverpool saw no changes. The changes are significant, though not enormous. Second, though improvements are more common than givebacks, contractual change can move in both directions. Givebacks appear to be particularly common in recessionary times, especially during the severe crisis of 1995–1996. For example, Suburbia workers saw vacation benefits permanently worsen in 1995; Oxxo's marriage and paternity policies became less generous in 1996 (but more generous again in 1997); Almacenes Rodríguez dropped store certificate bonuses in 1995. Third, some improvements continued to appear through the end of the sample in 2007, despite what the updated standard account describes as increased business dominance as government reduced its support for unions. And finally, improvements are found even in cases with official unions. In the largest group of cases (Suburbia, Farmacias Guadalajara, Liverpool, Gigante), the union is affiliated with the CTM, the leader of official unionism in Mexico. However, several cases of change (Almacenes Rodríguez, Oxxo, Soriana, and Zara) are affiliated with smaller federations, some grouping independent unions.

The most remarkable cases are Oxxo in León and Gigante in Tlaxcala. Here we see improvements in varied benefits—vacation pay, aguinaldo, family leave, and others—over sustained periods (1996–2002 in the case of Oxxo, 1991–2000 at Gigante). Particularly interesting is the appearance in the contracts of clauses that suggest active unions: printing copies of the contract for all workers at Oxxo, paid leave for store-based delegates to attend to union business at Gigante. These do not appear to be contratos de protección!

We can learn more by comparing the Tlaxcala Gigante contract with contracts at Gigante stores elsewhere.[3] In the neighboring city of Apizaco, where Gigante workers are represented by the same union, the contract terms are similar but lag somewhat behind Tlaxcala. In Mexico City, with another union, benefits in 1999 were identical to Tlaxcala except that the vacation pay rate was only 35 percent rather than 45 percent. In Guadalajara in 2002, with yet another union, Gigante

3. Unfortunately, I was able to obtain only Oxxo contracts in León.

Table 4 Benefit changes for contract runs of more than five years, except Gigante in Tlaxcala

City and company	Years	Changes in benefits
Federal District		
Suburbia (department store)	1993–2003	• In 1993, vacation days were better than the minimum in Table 1; as of 1995, changed to the legal minimum • Annual fee to union was 16 months of area minimum wage; in 2001 changed to 13 months
Zara (apparel)	1992–2003	• Evening shift was 7.5 hours for full pay until 2000; after that, 8 hours
León		
Farmacias Guadalajara (pharmacy)	1996–2003	• Starting 1998, employees must arrive on time with no grace period
Liverpool (department store)	1996–2003	No changes noted
Oxxo (convenience store)	1988, 1996–2003	• Holiday bonus 18 days in 1988, 30 days 1996 forward • Vacation time accumulation accelerated in 2002 • Vacation pay rate raised from 25% to 40% in 1996, to 50% in 2002 • 1996–2001 only, employer will print contracts in sufficient numbers to give to all workers • 1988 only, bonuses but no leave for marriage, paternity, death; 1996–1997 only, no leave or bonus for these events
Soriana (hypermarket)	1993 & 2003	• Added paid leave and/or bonus for marriage, birth to wife, death in family (not sure which year)
Tlaxcala		
Almacenes Rodríguez (apparel)	1990–2000	• Holiday bonus 15 days in 1990, 20 after 2 years in 1991, 1992–1997 graduated based on start date (topping out at 25 for people who started before 1987), 1998 onward 15 days • 1992–1994 only, bonuses in the form of store certificates • Vacation days set at minimum till 1996; thereafter slightly accelerated
Soriana (hypermarket)	1998–2007	• Starting 2001, paid marriage, paternity, death leaves; starting 2007, paid plus bonus for marriage and death. • Starting 2001, biweekly attendance bonus of 10 pesos in store certificate (increased to 30 pesos in 2005, 50 for those with a year of seniority in 2007)

Source: Retail union contracts from the Federal District (1993–2004), Guadalajara (2001–2004), León (1988–2004), and Tlaxcala (1987–2007).

Table 5 Benefit changes: Gigante in Tlaxcala

Company	Years	Change in benefits
Gigante (hypermarket) in Tlaxcala	1988–2006	• Holiday bonus: 1988–1990 = 15 days, 1991 = 25 days, 1992–2003 = 30 days, 2004+ = 30 after 1 year • Vacation pay rate: 1988–1990 = 25%, 1991–1997 = 40%, 1998–2003 = 45%, 2004+ = 45% after 1 year • Death leave added 1991, marriage and paternity leaves in 1992 • 25% premium for Sunday work added 1992, increased to 30% in 1994 • Bonuses for attendance, punctuality, and productivity added in 1992, dropped in 1996, resumed in new form in 1998 • Discount for purchases in Gigante initiated in 1992, starting at 12.5%; in 1996 switched to discount equal to 6% of salary, up to 9% in 1998 and 10% in 2000 • 1991: Life insurance policy added; 1992: initiated supplementary social insurance plan including retirement, life and disability insurance, major medical insurance, and a matched savings plan, all with employer and employee contributions • Starting 1992, leave with pay for 2 members of the Delegates' Committee when requested by the Central Executive Committee

Source: Retail union contracts, 1987–2007.
Note: Contracts for Gigante in the neighboring city of Apizaco are available for 1998–2006. Same benefits, except that the Sunday premium and vacation pay rates are somewhat less, and the incentive plan was not added until 2004.

offered more generous vacation pay (50 percent), faster vacation accumulation, and a larger discount for shopping at Gigante (plus a far higher pay rate, as I noted earlier), but no paternity leave. This variation in benefits is consistent with a company that is willing to negotiate with unions, but negotiates somewhat different deals with different unions.

It is also important to bring pay into the picture. Figure 1 shows the daily wage, computed as a ratio to the minimum wage in effect, of a cashier at the Tlaxcala Gigante and of a general store employee at the León Oxxo.[4] Several things are worth noting about this figure. First, in both stores the wage offered is consistently above the minimum wage, another example of compensa-

4. These are the jobs with the longest wage series in each set of contracts. These wage trends relative to the minimum wage do not track real wages, because the real value of Mexico's minimum wage fell over this period (Bortz and Aguila 2006). In the case of Oxxo, there were real wage gains of 7.5 percent over the period shown. In Gigante, however, there were fairly steady losses in real wages, with the 2000 real wage, at the peak of the wage's relation to the minimum, standing at only 77 percent of the 1988 value. Such losses reflect national trends (Bortz and Aguila 2006; Boltvinik 2000).

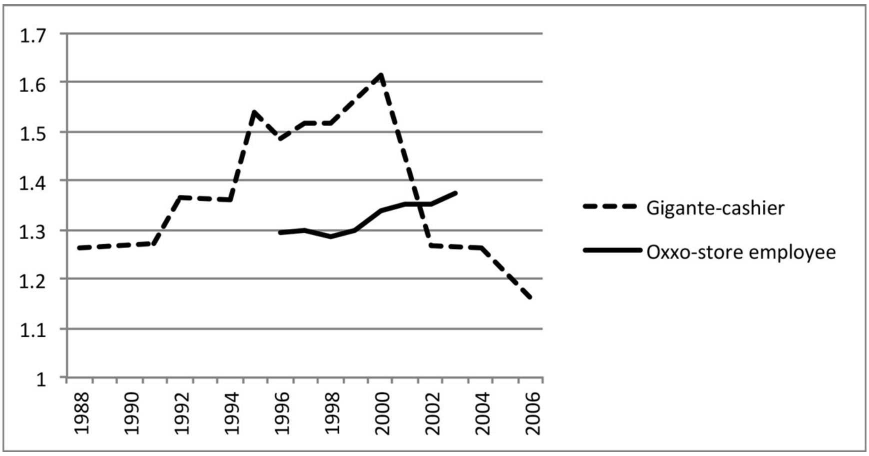

Figure 1 Ratio of daily pay at Gigante-Tlaxcala (cashier) and Oxxo-León (store employee) to regional minimum wage, 1988–2006. Based on retail union contracts described in Table 1; regional minimum wage (both locations are in area "C") from Banco de México 2001; CONASAMI 2014.

tion in excess of that required by law. Second, these wages grew relative to the minimum wage over most of the period in consideration. Finally, however, in the case of Gigante the cashier wage tumbled relative to the minimum in 2002 and continued to trend downward after that. This is particularly noteworthy given that there was also a slight retrenchment of vacation and bonus benefits from 2002 to 2004; there appears to have been some kind of turning point around 2002.

Another relevant wage comparison is to contrast these retailers' wages with those of local competitors. Figure 2 tracks the ratio of Gigante and Oxxo contractual pay, respectively, with the contractual pay for comparable jobs at the local competitors for which the longest wage series were available. Confirming earlier patterns, Gigante gained and held ground on wages relative to its competitor but then fell behind in 2002; Oxxo jumped above its competitor's wage level in 1998 and remained roughly 10 percent higher.

Why did Gigante workers lose ground beginning in 2002? Mexico did experience a recession in 2001, but the far more severe 1995 recession only resulted in a leveling off of wages, so the 2001 recession seems unlikely to explain this more dramatic dip. A more likely candidate is the fact that in 2002 a Wal-Mart opened a short distance from the Gigante (Wal-Mart de México 2003), offering far less generous wages and benefits. Gigante's sales reportedly fell dramatically when the Wal-Mart opened.[5]

5. Eligio Chamorro Vázquez, interview with author, May 2007 (Chamorro was substitute general secretary of the Federation of Workers of the state of Tlaxcala).

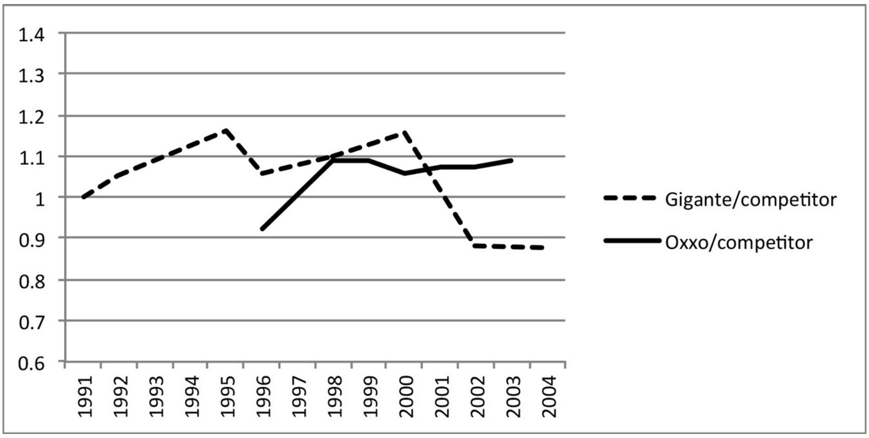

Figure 2 Ratio of daily pay at Gigante-Tlaxcala (cashier) Oxxo-León (store employee) to pay at local competitors, 1991–2004. Based on retail union contracts described in Table 1. Gigante's competitor is Almacenes Rodríguez (cashier); Oxxo's competitor is Farmacia Guadalajara (sales floor employee). These were the two local competitors with the longest available wage series for comparable jobs.

Explaining the anomalies

Overall, the cross-sectional and time series findings do not conform to the three propositions advanced about protection contracts. We can observe three main patterns in pay and benefits. First, some contracts do fit the expected protection contract pattern, offering only benefits required by law and making few or no changes in terms of employment. Second, some contracts offer benefits well above the basics; Liverpool and its subsidiary Fábricas de Francia are the leading examples. Third, many contracts exceed legal requirements and terms offered by competitors by moderate amounts, and at least in some cases show improvements over time. Gigante and Oxxo are the strongest examples of this third group.

How can we explain the latter two patterns, which the standard account of retail unionism would view as anomalous? Active unions are not the only possible explanation for above-baseline benefits, variations in pay, or contractual improvements. Here I consider three alternative explanations based on company policies rather than collective bargaining: efficiency wages, wage-benefit tradeoffs, and distinctive company strategies.

One possible explanation is that retailers that offer more are seeking to attract and retain more skilled workers, or provide an incentive for higher levels of effort and service—what economists call an "efficiency wage" (Akerlof and Yellen 1986). The fact that Liverpool/Fábricas de Francia occupies the top position for all three benefits studied is suggestive. As a department store, Liverpool has salespeople who actually engage with and serve customers and has far more valuable merchandise at risk of employee malfeasance than does a supermarket. But scanning the list of companies that offer extra benefits, we find not only department stores but hypermarkets, warehouse stores, convenience stores, small supermarkets, small-format clothing and furniture stores, and a bulk textiles store. And though the highest sales salary is paid by Zara, a chic apparel store, the highest cashier wage is offered by hypermarket Gigante, exceeding the amounts paid by Zara and Liverpool. Furthermore, although Liverpool and Fábricas de Francia offer the highest benefits in Mexico City and Guadalajara, Liverpool in León provides only the minimum! Finally, as it happens, I spent six months shopping at five of the retailers in the Tlaxcala sample—two with high benefits, one providing mid-level benefits, and two offering only the legal minimum. Only one of the five—a midlevel bulk textiles shop—had a level of service that was distinguishably higher than the others.

A variant of the efficiency wage argument is that companies offer more where they face more labor market competition from other businesses. But most of the variation in benefits takes place *within* cities, that is, within individual regional labor markets, ruling this out as the major explanation.

Another possible account of wage and benefit variation is that the high-benefits employers offset the added expense with lower wages. I calculated correlation coefficients between the value (in added days of pay) of the three benefits on the one hand, and the salesperson and cashier wages, on the other. The correlation coefficients are positive (0.29 for the sales wage, 0.07 for the cashier wage), indicating that higher wages and higher benefits are likely to occur together.[6] In short, there is absolutely no evidence for a tradeoff between wages and benefits, and some evidence that the two move together.

A final alternative to an explanation based on union power, consistent with covariation in wages and benefits, is that companies may simply follow different policies tied to strategic goals, managerial beliefs, or some other company-level motivator. There is some evidence to support this hypothesis, in terms of both benefits and wages. Although, as I pointed out above, Liverpool offers different benefits in different cities, that is unusual. Within each of Wal-Mart, Soriana, Gigante, and Comercial Mexicana, there is no difference in vacation and holiday bonus across the cities where I was able to obtain contracts, despite different unions in almost all cases. Similarly, Wal-Mart and its subsidiaries (Suburbia, Sam's Club) all offer the same benefit package. Oxxo and Bara, both subsidiaries of the Femsa Group, likewise provide the same package (though in this case, the two chains are also represented by the same union).

In terms of wage, Sam's Club in Mexico City and Wal-Mart in Guadalajara and León all paid the same wage for the basic sales job in 2003–2004, a relatively high 82 (2008) pesos daily, despite having different unions. But there are many more counterexamples: Suburbia, also a Wal-Mart subsidiary, paid a different amount than Wal-Mart and Sam's Club in the same cities; two Suburbia stores in the Federal District with different unions offered distinct wage levels (though the difference was about 3 pesos per day). A cashier's daily pay at Gigante was 127 (2008)

6. However, only the correlation with the sales wage comes at all close to standard levels of statistical significance (the p-values are 0.15 and 0.70, respectively).

pesos in Guadalajara, a stunning 74 pesos more than in León; the analogous gap for Comercial Mexicana was 88 versus 58 pesos. Differences in cost of living (Guadalajara is more expensive than León) cannot explain gaps of this size.

Moreover, there are other isomorphisms that look like union effects, not company effects. For example, in León, where Liverpool offers a poorer benefit package, both the store and the warehouse are represented by the same union, and the benefit packages at the two sites are identical. Grupo Comercial Difer and Bodegas Huitron in Tlaxcala, two small retailers, are represented by the same union, and the 1999 contracts are identical.

Finally, in a 2007 interview, a CTM union leader responsible for the Tlaxcala Gigante store that saw significant gains through the 1990s described active organizing and bargaining, with worker participation in the bargaining process.[7] He even denounced the union contract at the neighboring Wal-Mart, negotiated by a sister union within the CTM, as a protection contract. He explained that his union had originally organized the Wal-Mart, but Wal-Mart responded by firing all the workers and signing a protection contract with the other union; current employees, he claimed, were unaware they were represented by a union. In the absence of additional interview data, this account is anecdotal but suggestive given the significance of this particular store in the sample.

In summary, wage and benefit patterns in this sample of contracts do not match up with the claim that protection contracts are universal in retail. Nor do they correspond with alternative explanations of wage and benefit variations not rooted in union behavior. Though given the nature of the data we cannot directly observe variations in union bargaining behavior, the evidence is strong that an important part of the observed differences can indeed be traced to such behavior.

CONCLUSION

These findings cast severe doubt on the notion that union contracts in the Mexican retail sector are uniformly protection contracts. The fringe benefits specified in retail union contracts vary significantly, often exceeding the minimum required by law. Wages and benefits differ significantly by company in ways that point to company and union effects on top of other economic differences. Fringe benefits and wages do change over time, in many cases improving (at least, in the case of wages, relative to the minimum wage and to competitors' pay). Alternative explanations grounded in unilateral company-based strategies do not adequately explain the variation found in the data. And the appearance, in some cases, of contract language facilitating union action offers evidence that some retail unions bargain on behalf of their members, and that some companies are willing to accommodate active unions.

The optimistic side of these findings, then, is that there are signs of life among retail unions, including unions from official federations such as the CTM as well as independent ones. This evidence suggests that even in modern Mexican retail, written off by virtually all observers as hopelessly mired in inert, officialist

7. Chamorro Vázquez, interview with author, May 2007.

unionism and protection contracts, the critique by Roxborough, and many others since, of the standard account of subordinate unionism is still relevant.

But there are severe limits to this good news. For one thing, small commerce is still dominant in Mexico, and only 2.6 percent of Mexican retail workers were unionized at all in 2006 (author's calculation based on Cardoso and Gindin 2009, table 7). Moreover, of the nine sets of contracts with series spanning more than five years, only Gigante and Oxxo showed significant improvements, suggesting that this is a relatively rare event. In the case of Gigante, progress stopped and reversed, apparently in the face of price competition from Wal-Mart. Subsequent events at the Gigante store are instructive. Competitor Soriana acquired Gigante in 2007, and fired groups of workers; as of 2009, workers in the now-Soriana store reported they were not in a union.[8] This suggests that unless stronger unions can be built within market leaders Wal-Mart and Soriana, it will be difficult to sustain union advances elsewhere in the sector.

Still, in assessing the prospects for building active union organizations in the retail industry, and for that matter in other industries in Mexico, it is important to rediscover, recognize, and learn from what has already been accomplished. Exaggerating the dominance of protection contracts can obscure the leverage points that exist and the labor movement actors capable of playing a more militant role. A full understanding depends on thorough, disaggregated research on union contracts and other union behavior.

APPENDIX

Table 1 Cases of multiple contracts over time

Location	Contracts
Federal District	Gigante (1996–2000), Little People (2002–2004), Suburbia (1993–2003), Zara (1992–2003)
León	Bara (1998–2003), Comercial Mexicana (1998–2002), Farmacia Guadalajara (1996–2003), Liverpool (1996–2003), Oxxo (1988–2003), Soriana (1993–2003)
Tlaxcala	Almacenes 5–10–15 (1990–1994), Almacenes García (2000–2003), Almacenes Rodríguez (1990–2000), Farmacia Guadalajara (2001–2006), Gigante (1988–2006), Soriana (1998–2007)

Sources: Retail union contracts obtained in 2004 and 2007.

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8. Laura Collin Harguindeguy, personal communication, April 2009; Carlos Salas Páez, personal communication, May 2009.

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