Banking on insecurity:

HSBC and Santander in Colombia

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Introduction

In Colombia, where a stable, salaried job is hard to find, the banking sector seems like a gem for workers. With an excellent union-negotiated contract in a country with more unionists killed annually than in the rest of the world combined, labor rights appear to be highly respected in this sector. Nevertheless, a closer look at two multinational banks with a presence in Colombia, HSBC and Santander, reveals multiple practices that deny the right to organize, limit workers' rights, and produce a climate of insecurity.

These multinational banks could be using their global position to improve workers' conditions in the country where they operate. In Colombia, however, their policies and their managers' behavior belie the paper commitments that HSBC and Santander have made to respecting workers' rights.

Santander and HSBC banks bought banks already present in Colombia and quickly began taking steps that diminished workers' rights. Santander decreased the workforce drastically after its purchase while HSBC denied negotiations with the bank unions that already had a contract with the prior owner. Both now use pressure tactics to push their workers toward higher sales results after Santander introduced this strategy to Colombia. Sales goals are so high and their completion is of such priority that workers end up working extra long days, experience high levels of stress and even incur health problems in order to meet goals in fear of layoffs. More recently, HSBC has introduced an evaluation tool that measures workers' performance with a series of unrelated tasks rather than by their daily output, leading to the systematic laying off of workers who have been successfully working in their positions for many years.

The strength of unions in these two banks has been able to at least guarantee workers fair severance and good benefits while they are employed under strong collective bargaining agreements (CBAs), but they have been unable to redress the increasing job insecurity that banks use to pressure workers and limit benefits for longstanding workers. Thus, despite strong contracts, the only workers with job security are those with union leaders that are afforded protections that prohibit their firing. Others who join unions are quickly harassed and laid off while new employees are warned by human resources to avoid the unions altogether. These actions create an anti-union environment in both banks, despite the strength of the unions to negotiate contracts that apply to all non-management workers, affiliated or not, including the charging of dues. Nevertheless, the inability of these unions to prevent or address layoffs is further weakening their presence in the sector and quickly eroding bank workers' rights.

This brief paper results from six weeks of research into the current state of labor rights in these banks. The methodology included twenty brief, directed interviews with workers from the banks, semi-structured interviews with union leaders and organizers in the largest three unions that represent bank workers in these two banks, as well as a revision of relevant documents including the current collective bargaining agreements, public financial records and legal documents.

After a brief outline of the state of labor rights and unions in the Colombia, this paper outlines the history of HSBC and Santander banks' presence in the country. The following section elaborates the primary benefits and complaints workers experience in each bank. Finally, union presence and anti-union actions are described in the last section.

Labor Rights Protection

Various aspects of the Colombian labor law and the history of unions in Colombia are relevant to understanding the context in which the unions at HSBC and Santander operate. Historically, official labor law in Colombia amply provides for generous labor protections. Nevertheless, these rights have been increasingly undermined by changes to labor law and its poor enforcement. Within this context there is also a longstanding history of strong unions, especially in the banking sector. Colombian unions are grouped under three union centrals: the Workers Union Central CUT (Central Unitaria de Trabajadores), the Colombian Workers Central CTC (Central de Trabajadores Colombianos), and the General Workers Central CGT (Central General de Trabajadores). The union movement as a whole, while strong in sectors where it has achieved union presence and collective bargaining agreements (CBAs), only represents a total of approximately 4% of Colombian workers. This low unionization rate results from both strong public stigmatization of trade unions and a history and reality of violence against trade unionists. These two elements result from political polarization in the context of a longstanding internal armed conflict.

Banking unions have faired incredibly well in this context, but anti-union stigmatization and persecution still affects these trade unions. Thus, despite maintaining a strong union presence in 50% of the banks in Colombia and negotiating excellent CBAs in both HSBC and Santander, anti-union sentiments limit unionization rates, lead to union persecution and generally create a level of fear around topics connected with unions. All of this means that legal protections on paper are not always realities for workers, especially in the face of a strong anti-union culture throughout the country.

The primary government agency that regulates all aspects of worker conditions is the Social Protection Ministry (Ministerio de Protección Social). This ministry resulted from the Uribe Administration's fusing of the Labor Ministry with the Health Ministry in 2002. The Vice-Ministry of Labor Relations is in charge of the labor rights responsibilities of the Ministry and includes four subdivisions: the Office for the Defense, Protection and Promotion of Workers' Human Rights, the General Direction of Labor Protection, the General Direction of Work Promotion and the General Direction for Work Inspection, Surveillance and Quality Control (see a diagram of the Social Protection Ministry in Annex 1.5).

Labor Law in Colombia is contained in the Labor Code (Codigo Sustativo de Trabajo, see a copy in Annex 1.1) and all fundamental labor rights are part of the 1991 Constitution, including the Right to Work (art. 25), the Right to Due Process (Art. 29), the Right to Union Organizing (Art. 39), the Right to Social Security (Art. 48), the Right to Collective Bargaining (Art. 55) and the Right to Strike, except in essential public services (Art. 56). Additionally, this Constitution stipulates that all international laws, conventions and agreements that Colombia signs onto become part of

Constitutional Law, including the ILO conventions ratified by Colombia. (See Annex 1.2 ILO Conventions Ratified by Colombia).

Other laws that are relevant to the exercise of labor rights are the Decree 468 of 1990 that regulates Work Cooperatives (Cooperativas de Trabajo Asociado) and the law 50 of 1990 that regulates Temporary Service Agencies (Empresas de Servicos Temporales) (See Annex 1.3 Circular 067 sent by the Ministry of Social Protection to clarify the differences between these two types of organizations). In Colombia, the increasing use of the legal figure of Work Cooperatives as mechanisms to subcontract workers leads to the violation of the right to organize. While Work Cooperatives are legal associations of workers who collaborate with each other, they are often formed by businesses extra-legally as a way to subcontract, transferring the responsibility for healthcare, pension and other legal benefits to workers, and preventing unionization at the same time by distancing workers from businesses through intermediaries. Rather, the appropriate legal figures should either be direct contracts or Temporary Service Agencies that are required to meet these legal standards and whose workers can unionize. Although this practice is illegal, it is common throughout many sectors and may begin to appear in the financial sector in the future. The use of this legal figure in other sectors illustrates the way that law, while strict and clear, is weak in its application. Temporary Service Agencies are used in the financial sector to provide cleaning and security services as well as workers for some operational positions such as the call center and even cashiers at times.

The minimum monthly salary in Colombia is renegotiated each year between the government, the private sector and the union centrals. For 2010, the minimum salary is COL$ 515,000 per month (approx. US$ 217) plus mandatory healthcare, pension, transportation subsidy, unemployment insurance, occupational hazard insurance and biannual bonuses for directly contracted fulltime workers. Nevertheless, within the CBAs relevant to these two banks, the minimum salary a worker may earn is 130% the minimum monthly salary.

As named above, the rights for unions to be recognized and collectively bargain are consecrated in the Colombian Constitution of 1991. Additionally, this Constitution stipulates that all international laws, conventions and agreements that Colombia signs onto become part of Constitutional Law. Therefore, the ILO conventions, most relevant to trade union rights and collective bargaining including 87, 98 and 154, that Colombia has ratified are effectively Colombian Law of a constitutional rank (See a full list of the ILO Conventions Colombia has ratified in Annex number 1.2).

The practice of recognizing unions in Colombia, however, is under the responsibility of the Ministry of Social Protection and has recently shifted to this entity as a result of ruling C695 from the Constitutional Court. This court ruled that the prior process impeded trade unions' right to be legally recognized, and since the shift in procedure, unions report easier access to official registry of their unions.

Law 1210 shifted responsibility for determining the legality of strikes from this Ministry to the judicial branch, generally considered a positive step towards greater respect for the right to strike. Nevertheless, since this change, several strikes, including some in the mining sector have been declared illegal causing questions as to the criteria that are being used by judges who make such rulings.

Overall this legal framework amply covers labor rights, but the limited assurance that these laws will shape workers' experiences makes their promises hollow. Furthermore, the high rates of unemployment push workers to accept illegal or less than legal contracts to simply receive an income. In HSBC and Santander, the banks are careful to meet all their legal obligations, but the constant lay-offs provide a common sense of instability among workers that produces unhealthy levels of stress and extended workdays.

History of HSBC and Santander in Colombia

HSBC

HSBC has had a presence in Colombia since it bought Banistmo in 2006[1]. Banistmo was a small bank that had already changed hands several times in the decade prior to this purchase. It accounts for only about 1% of the assets of the Colombian banking system. Banistmo was a Panamanian bank with a strong presence in Central America that had entered the Colombian market only a few years before. HSBC's purchase of the bank was then a move to have regional presence rather than a move specifically targeting the Colombian market. This bank has long been owned by foreign capital; Banistmo acquired the bank from Lloyds TSB Bank. Many workers stayed on through many of these shifts in management and the unions, and the two largest unions in the banking sector, the *Unions Nacional de Empleados Bancarios* (National Bankworkers' Union), UNEB, and the *Asociación Colombiana de Empleados Bancarios* (Colombian Association of Colombian Bankworkers), ACEB, were able to keep their CBA strong with each new joint negotiation. In the first negotiation with HSBC, however, the bank expressed little interest in negotiating the CBA and tried to take away a number of rights. The unions responded with a 10-day strike for which 92% of all workers (both affiliated and unaffiliated) voted in favor. This strike was the longest the bank industry had seen in 15 years and served to achieve a CBA equal to the one previously negotiated with Bantismo. In the negotiations of the CBA two years later in August of 2009 the bank demonstrated a willingness to sit down at the bargaining table.

Nevertheless, the drastic drop in workforce size alone from the time of purchase to the present demonstrates the largest issue facing workers at HSBC: job insecurity. Gradual at times, and massive at others, HSBC layoffs of older, unionized and senior workers has increased the stress and pressure on workers to perform for fear of being the next person to be laid off. This has especially affected unions because workers do not want to affiliate unless they can be guaranteed union protection from layoffs, a privilege only granted to a certain number of union leaders as

[1] Eltiempo.com. "Hsbc, el tercer banco más grande del mundo entra al país, con la compra de Banistmo." November 23, 2006.

negotiated in the CBA. Others who have affiliated, as in the case of 35 recent affiliations in the city of Cali at the end of 2009, are then laid off or offered voluntary resignation packages, like 10 of these workers were in January and February of 2010. Overall this element, in addition to the increasing sales performance pressures, contributes to stressful workplaces for HSBC workers.

HSBC is very guarded with specific information about their workforce. Furthermore, Human Resources staff is considered part of bank management and therefore were not workers that I had access to for interviews.[2] According to data provided by the UNEB, there are 687 workers in HSBC Colombia (See Annex 2.1) distributed among a total of 25 offices throughout 9 cities in Colombia. [3]

Santander

Santander has had a presence in Colombia since July 1997 when it bought a Colombian bank, Bancoquia, that had recently acquired Santander Bank Colombia (a different, national bank).[4] It accounts for less than 3% of the assets of the Colombian banking system. In 2008 Santander capitalized 100,000 million Colombian pesos (approximately 52.6 million dollars) to its Colombian holdings (See general financial statements from the end of 2007, 2008 and 2009 in Annex 3.1). At the time of purchase, Bancoquia had more than 5,700 workers compared to 2010 with approximately 1,250 employees. Within the first 3 years of Santander's operation in Colombia it forced the resignations of at least 3,500 employees, creating crisis among workers and unions. In response, the three unions with an historic presence in this bank, the UNEB, ACEB and the *Asociación Democrática de Empleados del Sector Bancario y Financiero* (Democratic Association of the Banking and Financial Sector), ADEBAN, began a union formation strategy to protect as many workers as possible. Thus, affiliates and non-affiliates of these larger unions began to form more unions to provide union privileges to as many workers as possible. Under Colombian labor law, a union needs a minimum of 25 workers to legally exist and five of those workers have union privilege protecting them from lay-offs. During this time at least 10 more unions were formed and many workers are doubly affiliated, also permitted under Colombian law. The strategy seems to have worked, in the opinions of union leaders, because layoffs slowed. Currently these additional unions continue to exist on paper, but only four are named in the collective bargaining agreement (CBA), the three named above and ASTRABANSAN, and only the first three are part of the negotiation process.[5]

Workers and unions attest to the fact that Santander was the bank that introduced the concept of sales goals for bank workers to Colombia. The implementation of this strategy has completely changed the workplace, filling it with pressure, at times to the point that workers get ill from the stress. Clearly, this is a model that other banks have adapted as well, as in the case of HSBC.

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[2] Mentioned in interviews no.2 and 8 and in interviews with UNEB.
[3] Taken from the HSBC Colombia website: http://www.hsbc.com.co/188.4870.4843.html
[4] This information was provided in meetings with union leaders from ACEB in Bogotá and UNEB in Bogotá and Medellín.
[5] Ibid.

There are a total of approximately 1,200-1,250 workers in Santander bank, Colombia, according to data provided by the UNEB, ACEB and ADEBAN.[6] Santander does not provide public information about their workforce, but does, as agreed upon in the CBA have to provide information about the workforce to the unions. According to its website, Santander has a total of 75 offices in Colombia distributed throughout 22 cities.[7] However, according to workers, there are often openings and closings of offices.

Working Conditions

HSBC

Workers interviewed reported good overall completion of mandatory benefits as well as benefits outlined in the CBA. At the same time they highlighted a stressful work environment due to sales pressure and job instability in the context of constant layoffs. Other workers highlighted extended workdays without overtime, and extra hours on weekends including meetings and trainings.

All of the workers interviewed were directly contracted for fulltime work either currently or at the time they were pushed out of the bank. In a few cases they mentioned having been first hired with temporary contracts for a few weeks while their paperwork was set up for a direct contract. Three interviewees were contracted through a temp agency for 4 months to a year prior to being hired directly. Approximately, 57% of the staff is female, 19% of the employees are managerial staff, 8 % subcontracted workers (includes operational staff such as the call center, security and cleaning services), 6% SENA apprentices (the SENA is the state-run technical school that sends their students to the bank for apprenticeship); the remaining 68% are fulltime, directly contracted workers covered by the CBA.

The sales workforce is the minority and is also hired directly by the bank, rather than subcontracted. Subcontracting tends to happen only in operational positions. Some union leaders mentioned that they thought they had heard of a few sales positions hired that were temporary contracts and only commission based, but were not sure.

Workers are paid monthly basic salaries as well as subsidies outlined in the collective bargaining agreement (CBA) 2009-2011 (See a copy of this CBA in Annex 2.4). Transportation subsidies apply to workers who make less than the equivalent of two minimum salaries a month and food subsidies for those who work at an office open at the middle of the day. Salaries are not dependent on sales, but some positions do receive economic incentives and/or commissions for sales as detailed below.

Monthly salaries reported in interviews ranged from COL$ 700,000 (Service Agent in the Call Center) to COL$ 2,200,000 (management position).[8] The CBA sites that the minimum monthly

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[6] The UNEB committed to providing a document with exact figures, but had not at time of publishing.

[7] Taken from the Santander Colombia website: santander.com.co

[8] Interviews 1-9

salary for a full time, directly contracted worker is 130% of the minimum legal salary in Colombia, approximately COL$ 669,500 Colombian pesos per month. Annual raises are also stipulated in the convention. Union leaders complained that apprentices are given different types of contracts so that they do not receive their CBA guaranteed pay.[9]

Colombian law requires employers to provide their workers with basic, general health insurance through agencies known as EPS. The government regulates the coverage of this insurance plan, which is the same for all employees and their dependents. Additionally, insurance covering work-related accidents or conditions is also mandatory. HSBC provides this as well as an additional, private health insurance for workers as is agreed upon in the CBA. The bank covers almost the entire cost of these two insurance policies per worker, and the worker must only contribute a small amount monthly to the private insurance policy. Most workers saw this as an excellent benefit in their CBA given the poor quality of the basic health insurance.[10]

HSBC provides all mandatory legal payments to their workers that include basic health insurance, monthly pension payments, semi-annual bonuses equivalent to 50% of a monthly salary, unemployment funds (known as cesantías, that are meant to be as savings for possible future periods of unemployment, but can also be used to fund education or housing purchases) and membership to recreational institutions known as CCF's that provide touristic, sports, and recreational facilities to workers and their families.

In addition, as stipulated in the CBA, workers receive food subsidies for workers in Bogotá or other cities where the bank remains open at the middle of the day and workers cannot return home to prepare and eat lunch. Additionally, workers who earn less than the equivalent of two minimum salaries per month receive a transportation subsidy. All workers receive biannual bonuses that are 200% of their current monthly salary (or rather, 4 times what is legally stipulated in Colombia).

Additionally workers have rights to the following subsidies and benefits: educational subsidies for workers and their children under the age of 18; subsidized 75% of the cost of English classes; bonuses at the completion of each 5 years of service in the bank; a vision subsidy when they have eye appointments or need glasses; a maternity bonus for the birth of a child; a funeral subsidy if a close family member dies; life insurance that provides a pension for the family dependent on a worker that dies after 20 years of service in the bank; uniforms; a family subsidy; housing subsidies and loans when workers buy or better their homes. Overall workers expressed great satisfaction with all of the benefits and subsidies provided by the bank because of the CBA.

Workers in Bogotá reported that their official workday is 8am to 5pm or 5:30pm, with an hour for lunch. In the City of Cali, the work day is 8am-12:30pm and 2-6pm, a more common schedule in smaller cities used to allow workers to travel home for lunch. They said it should be an eight-hour workday, but it is usually a bit more. Some, especially in Bogotá, are expected to stay until 7 or 8 twice a week. These hours bring extra pay, but are mandatory. The UNEB reported that workers in

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[9] Interview 4.
[10] Interview 1 and 5.

Bucamaranga are often expected to stay extra hours but do not receive extra pay. Additionally, workers are sometimes asked to work Saturdays. In the Call Center, the 8-hour shifts vary, but are always strictly 8 hours, and any extra hours are paid out. Two workers from Cali said that they frequently had to stay late or come in on Saturdays but those extra hours were not paid, and when they did ask for pay, they were told they were not loyal to the bank.[11]

Workers reported being able to take personal days depending on the disposition of the boss. In cases of family calamities most felt they could ask for a day, but always with a justification.[12] Workers reported being able to take sick leave or leave for medical appointments as long as they have the certification from their insurance provider or doctor, a standard practice in Colombia. Some workers said that they preferred to not have to ask for days off because they ended up feeling that they owed something to the bank.[13] Other workers said they did not have that right. Overall, there is no standard practice around personal days, with the exception of births or deaths in the family as stipulated in the CBA. Additionally, the stress around job insecurity and sales pressure leads most people to avoid asking for such days.

Workers reported being able to take their 15 days of vacation, as stipulated by law, freely, with the condition of planning vacations with the rest of the office to make sure there was coverage for their position. According to the CBA, workers have the right to an increasing number of days of vacation per year the longer they work for the bank, but most workers prefer to have those extra days of vacation paid out, thus they function as an economic bonus. Vacations are calendared with preference for some workers getting their first choice on dates.[14] Sometimes management changes dates for some people's vacation time. Generally people felt they had the right to vacations but that they did not have control over when exactly to take vacation.

Nevertheless, most workers reported feeling generalized pressure that sometimes expressed itself in pointed comments against individual workers. This pressure derives from feeling that there is no job security as well as the pressure to sell. Also, many workers felt that there was preferential treatment to some workers while others were consistently scolded for slight errors such as arriving late.[15]

The two main issues that workers mentioned were sales pressure and job insecurity, especially that related to days of testing called SESBEN that are part of what the bank is calling its "Dinamitization" process.[16] The issue of sales pressure is answered in the following point. The testing called SESBEN is a half-day series of tests applied to workers from all areas of the bank. These tests include a long questionnaire, a personal presentation, providing a variety of solutions to problems individually and in groups, and putting together Lego figures based on looking at a Lego figure briefly. External evaluators and management run these tests and they say that they are

[11] Interviews 6 and 7.
[12] Interview 3.
[13] Interview 9.
[14] Interview 7.
[15] Interview 8 and 9.
[16] Interview 2 and 7.

to evaluate people's profiles to see if they line up with their positions. Nonetheless, many workers reported meetings in which they were encouraged to submit a "voluntary resignation" after completing this exam, despite having successfully worked for many years in their position.[17] Additionally, the perspective of people's immediate bosses is not considered in this evaluation, which workers feel is unjust.[18] One worker said that the week after she took the exam, she was called into the main office in Cali and told that she did not have the profile for her position, the bank wanted to grow organically and so they would offer her more than the severance package in the CBA if she resigned, and so she did.[19]

Across the board, workers said that this pattern of testing and then pressure to sign "voluntary resignation" packages creates incredible stress in the workplace because they do not know if they are next. One worker just joined the union because she saw that having union privilege as a union leader would protect her job.[20] Others talked about the confusion of the whole situation because the forced resignations do not seem to have any logic given that they are hiring new people, pushing good workers out and keeping on poor workers.[21] This makes the SESBEN and forced resignation processes seem like they are more of a strategy to debilitate unions and increase pressure to perform.

Additionally, many workers talked about increasing workload as a result of the decreasing staff meaning that they now share the same work among fewer people.[22] Others mentioned that the Call Center has them working in an extremely cramped space.[23]

Sales pressure is directed primarily toward sales associates who have sales goals within a program call the "Motivator". This program sets goals for the office as a group, most of which apply to sales associates, but wherein cashiers have to promote the product of the moment and give perfect services evidenced by zero complaints. Commissions or economic incentives are distributed among the members of the office according to their participation, more for sales associates, when they reach 82% or more of the goal. The goals are always rising.[24] Given that the goals are so high, sales associates are expected to search out clients with cold calls and office visits to potential interested parties, as well as offer more products to individuals that are already HSBC clients. Many workers cited that this increases stress, work hours and pressure from management.

Four of the workers interviewed had been pushed to accept "voluntary resignation" packages.[25] One of these workers noted that she was one of 8 workers pressured to resign the same week in Cali,[26] while another mentioned that his wife had been given a similar package just months after

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[17] Interviews 2, 6, 7, 8 and 9.
[18] Interviews 8 and 9.
[19] Interview 6.
[20] Interview 2.
[21] All of the interviews.
[22] Interviews 3,8 and 9.
[23] Interviews 8 and 9.
[24] Interviews 1,2, 4 and 5.
[25] Interviews 3, 5, 6 and 7.
[26] Interview 5.

he was in Bogotá,[27] and another said three additional people were pushed to accept the same the same day he was.[28] One worker reported that a coworker had been fired for placing a complaint with management, but did not know the details of the case.[29] They all said that when they took their cases to the union to look at, everything was legitimate, and they received severance that was at least 20% higher than what they would get in the case of a layoff. Thus, the bank avoids having to fire or lay off workers, but they achieve the same results.

Santander

The experiences of workers at Santander is similar to that of HSBC employees in that job instability and sales pressure are the primary complaints. In the same way, Santander carefully fulfills all of its legal obligations to its workforce including generous severance packages that exceed the mandated rates in the CBA.

Workers are paid basic monthly salaries as well as subsidies outlined in the collective bargaining agreement (CBA) 2009-2011 (See a copy of this CBA in Annex 3.3). Food subsidies apply to employees who work at an office open at the middle of the day and transportation subsidies are available for all workers. There are additional food and transportation subsidies for night shifts. Also, sales associates who have to move around the city to carry out their work and employees who live in a different municipality than where their office is located receive additional transportation subsidies. Salaries are not dependent on sales, but some positions do receive economic incentives and/or commissions for sales as is detailed below. Unions estimate that 70% of staff is female and that almost 30% of employees are management as the company is ever-increasing the number of positions considered management so that they are not covered by the CBA.

Basic salaries reported in interviews ranged from COL$ 1,720,000 (Cashier) to COL$ 2,566,000 (assistant manager position).[30] The CBA sites that the minimum monthly salary for a full time, directly contracted worker is 130% of the minimum legal salary in Colombia, approximately COL$ 669,500 per month. Annual raises are also stipulated in the convention and vary according to pay range.

Santander provides all mandatory legal payments to their workers that include basic health insurance, monthly pension payments, semi-annual bonuses equivalent to 50% of a monthly salary, unemployment funds (known as *cesantías*, that are meant to be as savings for possible future periods of unemployment, but can also be used to fund education or housing purchases) and membership to recreational institutions known as CCF's that provide touristic, sports, and recreational facilities to workers and their families. As in the case of HSBC, the CBA with Santander

[27] Interview 2.

[28] Interview 7.

[29] Interview 2.

[30] Interviews 1-11.

provides for an additional insurance policy for workers and their families in addition to the mandatory health insurance.

In addition, as stipulated in the CBA, workers receive food subsidies in Bogotá or other cities where the bank remains open at the middle of the day and for workers who work overnight, transportation subsidies for all workers, and additional ones for workers who live in other municipalities or have to move around the city for their job.

All workers receive life insurance policies, a bonus upon the birth of a child or a wedding, a funeral subsidy in the case of the death of a family member, vision care, dental care and a retirement bonus. In addition, workers have the right to educational and housing subsidies for themselves and their children and housing loans as outlined in the CBA. Overall, workers and unions consider the CBA to be excellent and find that the bank meets with all its legal and agreed upon responsibilities.

The CBA provides for 44 hours of work, Monday through Friday, and the official workday varies from office to office. While some workers reported a complete respect for the official workday,[31] most spoke to additional work hours with sales meetings early in the morning and an expectation that sales associates will stay late to continue making phone calls into the evenings.[32] Union members expressed that they felt they could leave on time because they knew their rights and could demand that they be respected; they also felt that due to union privilege and union leave they did not have as strict sales goals. [33] While sales associates are not paid for these extra hours, workers who come in on Saturdays for meetings, trainings or extra work are paid overtime.

Workers consider that Santander was the bank that introduced the concept of sales goals to banking. There are monthly and quarterly office and personal sales goals. Commission and incentives for meeting personal and office goals are paid out in Sodexo vouchers rather than cash. Sodexo vouchers are coupons for use in certain chain grocery stores, some restaurants and gasoline, and, because they are considered payment in kind, do not count as salary in the calculating of the social security obligations for the company; in other words, they are a way for the company to save money by avoiding obligatory payments. Mostly there is heavy pressure for the sales positions, but sometimes cashiers or other operations positions are expected to sell as well. The pressure is extremely intense and at times produces negative health effects, and certainly extends people's work hours. Sales associates are expected to actively find clients through cold calls and visits. Union leaders covered by partial union leave reported that they did not receive sales commissions but that at least the stress was reduced because they do not have sales goals. [34]

Workers reported being able to take personal days depending on the disposition of their manager. Most people said they would not ask for them because of the stressful sales situation or to not fall

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[31] Interview 2.
[32] Interviews 3, 4, 8 and 9.
[33] Interviews 5 and 6.

behind in work.[35] In the same way, sick leave is discouraged and only granted with documentation by medical providers. On the other hand, workers felt they are able to take their 15 days of vacation, as stipulated by law, freely, with the condition of planning vacations with the rest of the office to make sure there was coverage for their position. Yet many talked about the difficulties in scheduling vacation time because everyone wants the same two times of the year off. One worker, originally from another city, had asked for time off in December to go visit her family. Later, the manager pushed her vacations a month earlier, giving her time off in November, when she could not go visit her family because she was still in class at the university.[36]

More than half the workers interviewed expressed that they do not feel respected in the workplace. One worker reported being told she was stupid and incapable by a boss; she spoke directly with that boss about these comments and the situation got better.[37]

Other workers expressed that the excessively high sales goals signify a lack of respect.[38] One worker reported that his managers hounded him with morning meetings about how much he would sell, evening meetings to see if he had met his personal goals, and constantly followed him around the office to the point that he began to have heart problems due to all the stress.[39] He resolved this problem by joining a union to have union privilege and partial union leave and now he no longer has sales goals, but has a number of coworkers who have also had health problems because of the pressure to sell.[40]

Several workers complained that there is not equal pay among the same positions, and that pay disparity is not due to seniority or education.[41] In fact this is one of the many reasons that some workers have legal cases pending. Other workers talked about the lack of staff so that when one person is out because of illness everyone else has to take shorter lunches to cover for this person.[42]

There are a number of pending cases against Santander including at least 9 cases of salary equalization, 5 harassment cases and 2 cases to demand payment of the pension as in the CBA. Because so many workers are concerned about the consequences of taking cases against the bank, only two were will to share the details of their cases and the full charges are available in Annex 3.4: Omar Rodrigo Tarazona Villamil works as a special assistant and earns almost COL$500,000 less than another person who works in the same position; Luz Dary Restrepo Rodriguez works as a sales assistant and earns almost COL$300,000 less than another person who has the same job title.

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34 Interviews 4 and 5.
35 Interviews 10 and 11.
36 Interview 4.
37 Interview 3.
38 Interview 8.
39 Interview 5.
40 Ibid.
41 Interviews 1, 7 and 10.
42 Interview 7.

One worker was fired after she sold several insurance policies to the same client and they were all registered with the same address. She had taken this concern about the addresses to her supervisor and was told that it was not a problem so she put the paperwork through. Later on she was called in and accused of falsification of papers and fired without severance.[43]

Unions talked about the increasing labor "flexibilization", understood as the shifting of payment methods to avoid paying as much in mandatory benefits that are paid according to salary levels. Thus, rather than paying a full salary, they compliment a lower salary with Sodexo vouchers (vouchers that can be used to buy food and some other goods in major grocery chains), gasoline vouchers or money into savings accounts so that the total the worker receives monthly is higher. This later affects workers when they are laid off or when they access their unemployment or pension funds because their base pay was lower (although their net pay was higher). This is an anti-union strategy because workers sometimes have to renounce their CBA rights to receive such a shift in payment methods.

Approximately 10% of the workers are subcontracted, including security and cleaning services. Otherwise the majority of the staff is directly contracted, although it seems that more positions are starting to be sub-contracted, such as cashiers. ADEBAN is currently doing a series of surveys to better understand how many people are subcontracted.[44] All of the workers interviewed were directly contracted for fulltime work either currently or at the time they were pushed out of the bank. In one case a worker was hired through a temp agency for a year prior to receiving a direct contract[45] and another was a SENA apprentice and then was hired by the bank.[46]

Right to Organize

HSBC

There are two unions that are recognized by the HSBC and jointly negotiate the CBA every two years. The most representative union is the *Unión Nacional de Empleados Bancarios* (National Bankworkers Union), UNEB (http://www.unebcolombia.org) and the *Asociación Colombiana de Empleados Bancarios* (Colombian Bankworkers Association), ACEB. The UNEB is affiliated to the largest and most representative union central in Colombia, the *Central Unitaria de Trabajadores* (Workers Union Central) (CUT) and the ACEB is an affiliate of the *Central de Trabajadores Colombianos* (Colombian Workers Central), CTC.

Only 9% of the workforce are affiliated with unions, and almost half of those affiliated are trade unions leaders. Trade union leaders count on additional benefits, principally union leave and union protection meaning that they cannot be fired or laid off. It is worth noting that the CBA stipulates that all directly contracted workers that are not part of management are covered by the CBA and must pay union dues. Thus, most workers receive the benefits of the union without affiliating.

[43] Interview 3 (the dismissal letter included in the annex).
[44] Results from this survey were not available at time of printing.
[45] Interview 8.
[46] Interview 11.

This union held a collective bargaining agreement with Bantismo at the time of HSBC's acquisition of this bank, and had held similar CBAs with prior owners of the same bank. The first time the CBA had to be renegotiated with HSBC, in 2007, the UNEB held the longest strike in the past 15 years, 11 days, because of HSBC's intention to decrease existent benefits in the agreement. The strike ended with HSBC ceding to the union's pressure and the UNEB and ACEB feeling that their goals had been reached (A copy of the agreement can be found in Annex 2.4.1). CBAs are renegotiated every two years, and the current CBA was negotiated in August of 2009 and took force as of September 1, 2009 (See Annex 2.4.2). Again, within the Colombian context, this CBA is incredibly strong, and workers affiliated or not repeatedly highlighted the excellence of this CBA. In addition, the UNEB worked toward a sector wide negotiation process in 1997 that did not produce results.

Workers reported feeling harassment or mistreatment for belonging to unions and being union leaders.[47] There are clear risks for joining a union, including forced resignations. In Cali, 10 of the 35 workers that affiliated to the UNEB at the end of 2009 were fired in January and February of 2010.[48] At the same time, some workers who affiliated to the UNEB less than a month prior to this study reported that they felt more respect in the workplace since they joined.[49] Other workers reported that union leaders are not considered for promotions.[50] Additionally, workers shared that it is common practice that as workers are contracted, management tells them that there are unions in the bank, but that they should not join them.[51] One worker reported that he was an affiliate of the UNEB until the management offered loans to employees who were not affiliated with the union; He wanted the loan and they told him he had to disaffiliate from the union, so he did.[52] This type of tactic is considered common.

Santander

There are 12 unions recognized by Santander. This is partially because during the drastic workforce cuts many small unions formed with the minimum of 25 workers because 5 of those 25 workers have union protection from firings. Thus, many people found a solution to their concerns about job stability in the formation of unions. Additionally, workers can belong to more than one union, so some belong to a small union to have protection from firings and then also to the UNEB. Nevertheless, the contract negotiated by the most representative unions, the UNEB, the ACEB and the *Asociación Democrática de Empleados del Sector Bancario y Financiero* (Democratic Bank and Financial Sector Workers Association), ADEBAN applies to all directly contracted, non-management workers.

It is worth noting that the CBA stipulates that all directly contracted workers that are not part of management are covered by the CBA and must pay union dues. Thus, most workers receive the benefits of the union without affiliating. With a total of approximately 500 workers unionized,

47 Interviews 3 and 4.
48 Interview with UNEB.
49 Interview 8 and 9.
50 Interview 4.
51 Interview 4.
52 Interview 7.

membership to these three principal unions is roughly: UNEB 250, ACEB 100, and ADEBAN 80. Jointly, the UNEB, ACEB and ADEBAN renegotiate the CBA every two years. A copy of the current CBA can be found in Annex 3.3.

Union members felt that they were treated with disrespect given that they are no longer offered promotions or additional raises due to their affiliation.[53] One worker has been directly told multiple times that if she wants a promotion or to change offices, all she has to do is renounce her union affiliation.[54]

Conclusions

HSBC and Santander have signed collective bargaining agreements and generally follow labor law (with some exceptions particularly around payment for overtime). However, the introduction of strong sales pressure and systematic layoffs has produced an unstable work environment. These two banks demonstrate ways that employers use alternative tactics to debilitate unions and increase workers' productivity through subtle and direct messages about job insecurity. In light of the overall employment situation in Colombia, these strategies bring decreasing respect for workers' humanity while on paper employees seem to still claim full respect for their rights.

[53] Interview 1, 5 and 7.
[54] Interview 4.