

EXPLORING THE LOCAL MEANING OF DUE DILIGENCE LEGISLATION

The case of the *Loi de
Vigilance* and
Teleperformance
Colombia

Anne Straesser

MSc International
Development Studies



WAGENINGEN
UNIVERSITY & RESEARCH

Thesis MSc International Development Studies
Specialisation Politics and Governance of Development

Anne Straesser

Student ID 1163272

Thesis code: SDC80436

Wageningen University and Research

Sociology of Development and Change

Supervisor: dr FM (Michiel) Köhne (SDC)

Examiner: prof.dr.ir. JWM (Han) van Dijk (SDC)

August 2023

Abstract

With the rise of global value chains, often large companies have been observed outsourcing dangerous or labour-intensive work to places where labour is cheap, and workers' rights are often little protected. Not being an unknown issue, over the last decades, there have been different approaches developed in the Global North, ostensibly addressing said systemic caused harm in global value chains, though with limited effect for the victims of corporate abuse in the Global North. The latest development in this tradition has been due diligence legislation, which has been acclaimed for turning respect for society and the environment throughout the value chain into a legally enforceable duty for companies. However, the meaning of such legislation for those directly affected by corporate abuses remains an understudied aspect.

The French Loi de Vigilance (2017) has been celebrated as a frontrunner of its kind and was therefore selected to explore the local significance of due diligence legislation zooming into a conflict around working conditions at a French call centre in Colombia. Qualitative data from interviews with former employees was collected and complemented with small talks, social media data and additional literature to provide an in-depth case study and suggest reasons for which so far the due diligence legislation has not been a suitable tool of resistance for the affected workers.

By capturing the local context, and acknowledging bottom-up strategies of resistance workers engage in, it is argued that the local meaning of the Loi is liminal, first, because there is a mismatch between the image of conflict that is evoked in the setup of the law, and secondly, because there is a lack of political will to genuinely challenge the global asymmetries that both enable and are reproduced by the strategic outsourcing of social and environmental costs in global value chains.

Keywords: due diligence, Loi de Vigilance, Teleperformance, call centre, resistance

Resumen

En un tiempo en el que dominan las cadenas globales de valor nuestras economías, frecuentemente se puede observar que las empresas grandes subcontratan los trabajos peligrosos o de gran intensidad de mano de obra a compañías en lugares donde la mano de obra es más barata y los derechos laborales poco protegidos. No es un asunto nuevo y a lo largo de las últimas décadas se han propuesto y desarrollado diferentes enfoques desde el Norte Global que procuran abordar dicho daño sistémico causado en las cadenas de valor globales, aunque con un efecto limitado para las víctimas del abuso corporativo en el Norte Global. El avance más reciente, respectivamente, ha sido la legislación sobre la debida diligencia. Ha sido recibida positivamente por convertir el respeto a la sociedad y al medio ambiente a lo largo de la cadena de valor en un deber jurídicamente exigible para las empresas. Sin embargo, el significado de dicha legislación para las personas directamente afectadas por los abusos empresariales sigue siendo un aspecto poco estudiado.

Se considera a la *Loi de Vigilance* francesa (2017) como pionera en su materia y, por lo tanto, fue seleccionada para explorar el significado local de la legislación de diligencia debida que en un conflicto sobre las condiciones laborales en un *call center* francés en Colombia. Se recopilaron datos cualitativos de entrevistas con antiguos empleados y se complementaron con pequeñas charlas, datos de redes sociales y literatura adicional para proporcionar un estudio de caso en profundidad y sugerir las razones por las que hasta ahora la legislación de diligencia debida no ha sido una herramienta adecuada de resistencia para los trabajadores afectados.

Al recoger el contexto local y reconocer las estrategias de resistencia que nacen en el *call center*, se sostiene que el significado de la *Loi* en dicho contexto es liminal. En primer lugar, se debe a que hay un desajuste entre la imagen de conflicto que se plantea en la configuración de la ley y, en segundo lugar, porque hay una falta de voluntad política para desafiar genuinamente las asimetrías globales que permiten y se reproducen por la externalización estratégica de los costes sociales y medioambientales en las cadenas de valor globales.

Palabras clave: debida diligencia, Loi de Vigilance, Teleperformance, call center, resistencia

Acknowledgements

The start of this thesis journey was definitely a bit bumpy and overshadowed by negative memories of my BSc thesis experience. I am even happier that I can now look back on it with a smile and say that I enjoyed it and that I am proud of *my Msc thesis*.

Thank you to Michiel, for your patience and guidance. For taking a lot of time to decode my wordy and political scientist descriptions, challenge my approaches and arguments, discuss with me and provide me with helpful and encouraging comments. Thank you for showing me, that the thesis process can indeed be an enjoyable one.

Thank you to the people at the Business and Human Rights Resource Centre, especially to Amanda, and to the Universidad de los Andes, especially to Juan Manuel, for receiving me with open arms and insightful discussions about tackling corporate abuses.

Thank you to those people who make Bogotá a second home for me, especially to Juani and Manu with Baghira and Mr. Pickels.

Thank you to my wee Dijkstraat family Sanne, Amar, Maarten, Martine and Renee for being there from the start listening to my struggles, and spoiling me with encouraging words, cups of tea and delicious food to make it to the finish line.

Thank you to my cycling and climbing buddies, especially Domo, Ángel, Elena, Elizabeth, Antonio and Franzi, who know how important these moments are for me to take a deep breath and clear my mind again.

Thank you to those who have been riding on the thesis roller coaster with me, to Dominic, Vera, Susanne, Vera, Anni, Lena and Bruno, for complaining and celebrating the small victories together.

Thank you to my other friends in the Netherlands, Germany, Scotland and Colombia who have been around, supporting me in this process, each in their own way, especially to Charlotte, Giulio, Jonny, Miriamcita, Hanna and Camilo.

Thank you to Mama, Papa and Jonas for keeping an eye on me, for encouraging me in my passion and showing interest in it and for being there from start to finish.

Thank you to all those who were part of this research, for trusting me and sharing your stories and experiences of the call centre with me.

Table of Contents

Abstract	2
Resumen.....	3
Acknowledgements	4
1. Introduction	8
1.1 Problem Statement.....	8
1.2 Relevance and Justification	10
1.3 Objective and research questions	10
1.4 Argument	11
1.5 Outline.....	11
2. Problematizing and assessing due diligence as a way to address corporate abuse	13
2.1 Introduction	13
2.2 World Systems Theory highlights global power asymmetries which allow for externalised harm in global value chains	13
2.3 A brief genealogy of value chain governance: Towards mandatory corporate Human Rights Due Diligence	14
2.3 Reflecting on the workings and effects of due diligence: Adding perspectives from the South	17
2.4 Access to Justice.....	20
2.5 Capturing grassroots forms of resistance	23
2.6 Conceptual Framework.....	26
3. Entering the call centre world and navigating the field	28
3.1 Introduction	28
3.2 Research Design	29
3.3 Case Selection: The French Loi de Vigilance and Teleperformance Colombia	29
3.4 Data Collection.....	30
3.5 Sampling Strategy	32
3.5.1 Research Population	32
3.6 Data analysis	34
3.7 Ethics and Limitations.....	34
3.7.1 Positionality: Familiar with country and culture, yet visibly an outsider	34
3.7.2 Skewed research population	35
3.7.3 Fieldwork approach	36
3.7.4 Temporal Scope of the Thesis.....	36
4. The <i>Loi de Vigilance</i> and workers' rights at Teleperformance	37
4.1 Introduction	37
4.2 The <i>Loi de Vigilance</i>: background and structure.....	37

4.3 The case of Teleperformance Colombia and labour rights	39
5. #ProudToBeTP: Making the Call Centre	41
5.1 Introduction	41
5.1 “Somos los niños ricos independientes”: Images of the call centre agent	41
5.1.1 Niños – targeting the youth	42
5.1.2 Ricos – weapons of the ‘weak’?	43
5.1.3 Independientes: a temporary occupation	44
5.1.4 A more nuanced picture: the rich disinterested kids and those who have to fear for their job	44
5.2 Everyday experiences at Teleperformance Colombia – A great place to work?	45
5.2.1 Routinisation, High Targets, Pressure and Stress	46
5.2.2 Health, safety and control during the pandemic	50
5.2.3 Irregularities regarding payments	51
5.2.4 Surveillance at the workplace	52
5.2.5 Punishment for voicing critique	53
5.3 Locating power: the structure and culture within the call centre	54
5.3.1 The role of the client	55
5.3.2 Work culture and management – pressure for efficiency	56
5.4 The ill of a sector?	60
5.5 Conclusion	61
6. Strategies of Everyday Resistance	63
6.1 Introduction	63
6.2 Covert refusal to work	63
6.3 Humour and gossip	65
6.4 Exit: Call Centre hopping: “I can quit today and tomorrow I have a job in another call centre”	67
6.5 Voice: Openly articulate discontent in the company	70
6.6 Loyalty: “Those who don’t complain understand how to advance a little faster” – Embracing the career ladder	72
6.7 The role of legality	76
6.8 Conclusion: Strategies of Everyday Resistance	79
7. The local meaning of the Loi de Vigilance	80
7.1 Introduction	80
7.2 Mismatch between the imaginary of the Loi and the reality on the ground	80
7.2.1 The envisioned scenario implicit in the Loi: tackling collective problems, contributing to systemic solutions	80
7.2.2 The situation on the ground: Individualisation and obstruction of collective action	81

7.2.3 Lack of awareness and accessibility of the Loi.....	84
7.2.4 Lost in translation: Mapping the problem to the <i>Loi</i>	86
7.3 Returning to World Systems Theory: Suggesting a lack of political will	89
7.3.1 An enforceable mechanism?	89
7.3.2 Understanding the structural dependence	91
7.3.3 A more nuanced picture: The potential of using due diligence as a political tool and part of a ‘ <i>smart mix</i> ’	92
8. Reflections on the meaning of due diligence legislation	94
References	100
Appendices	107
Appendix A: Overview Data Collection	107
Appendix B: Social Media Contents.....	114
Appendix C: Interview Guides	117
Empleadx antigux de Teleperformance Colombia.....	117
Representante/ miembrx de Sinditecc	119
Representante MinTrabajo	121
Representante/ miembrx CIEDH (encargada del proyecto de responsabilidad legal empresarial)	122
Representante/ miembrx Association Sherpa	123

1. Introduction

1.1 Problem Statement

Social and environmental harm caused by companies as a direct or indirect result of their business operations is by no means an unknown issue. Yet, with the proliferation of global value chains a global asymmetry regarding the places where damage is caused and the sites of capital accumulation, the locations where the perpetrating companies are registered, can be observed. Thanks to globalisation, the outsourcing of labour-intensive production steps has become a key strategy for businesses to reduce their production costs and thus maintain their competitive advantage. This is not only the case in manufacturing but in recent decades also in the telemarketing sector, for example. Here, the wage costs are expected to account for around 60% of the costs, thereby explaining the appeal of low-cost countries (Micheli Thiri6n, 2007). In practice, however, this means, that not only the production steps but thereby harm to humans and the environment are outsourced to countries in which prosecution of corporate wrongdoings is deemed less likely. This strategic choice allows Western parent companies to avoid liability and prevents victims in these countries from obtaining effective remedy for suffered damages (Bonds & Downey, 2012; Varvastian & Kalunga, 2020). The problem that serves as the point of departure for this thesis is therefore the harm caused by companies in third countries, which traditionally affects individuals and communities closer to the beginning of global value chains.

One example of such a multinational company is the French call and contact service provider Teleperformance SE¹. While analyses of value chain regulation frequently centre around commodities, the Business Process Outsourcing (BPO) sector, has been considered a prime example of globalisation in which digital service provision has been outsourced by multinationals to countries with cheaper workforce (Wolanski, 2019).

The story of Teleperformance in Colombia began in 2009 when the multinational acquired the local company *Teledatos*, and since then it has been growing steadily (Portafolio, 2013; Soler, 2022). With over 40,000 employees, the multinational plays a significant role in the Colombian job market and has demonstrated awareness of this bargaining power by stressing its employment-generating capacity² (Teleperformance SE, 2021). On the other hand, the country has turned into an essential site for the company's operations, hosting its third-largest workforce³. Yet, in recent years, Teleperformance made headlines on several occasions as working conditions for employees in Colombia and other countries have been under criticism (Aizicovici, 2020; McIntyre et al., 2022; Meslet, 2020; Vargas, 2022).

¹ Hereafter Teleperformance or TP

² Interview 2, 22/03/2023

³ Interview 17, 02/05/2023

1. Introduction

Allegations include the obstruction of unionisation efforts, irregularities in wages and gender discrimination (UNI Global Union, 2019). If the choice of locations is interpreted as deliberate in a global context for the reasons outlined above, it has been argued that the French parent company must take responsibility for the harm caused in its call centres abroad.

This argument draws on the *Loi de Vigilance*, the French due diligence legislation (2017), which stipulates the duty of large French companies to identify and address any social or environmental risks arising in their value chains, regardless of the geographical location of the identified risk or harm. Thereby, the legislation falls into a tradition of other efforts, that have emanated from the Global North and ostensibly sought to address the adverse effects of business conduct on humans and the environment in global value chains. On the ground, however, little had changed for the victims of corporate abuses, as earlier approaches remained mainly of voluntary and non-enforceable character (e.g. Gustafsson et al., 2022; Lindt, 2020).

This persistence of harm had raised questions regarding the legal toolkit to address the problem. The standard in our globalised world is the above-sketched scenario, in which the value chains of companies stretch across multiple jurisdictions and are increasingly complex. This is insofar problematic as businesses must abide by regulations provided by the state, yet the reach is limited to the national jurisdiction. Several scholars and practitioners have investigated the structural conditions that allow for this situation, which on the ground means a denial of justice for those working at the start of global value chains. Legally speaking, the main barrier for transnational litigation has been rooted in the fact, that the direct perpetrator of harm is usually a different legal entity than the parent company, which thereby avoids assuming responsibility (Lindt, 2020; Schilling-Vacaflor, 2021). Other barriers noticed in the literature are the complicities of states and corporations (Bernaz, 2016; Newell, 2002), clashing underlying ontologies and resulting knowledge asymmetries (Flemmer, 2018; Schilling-Vacaflor, 2021) as well as the lack of access to courts, to information and financial resources (Eckert & Knöpfel, 2020; Schilling-Vacaflor, 2021).

Against this background, especially civil society actors in the Global North have attached much hope to the idea of domestic due diligence legislation to curb the veil of impunity of multinationals and facilitate access to justice for the victims of corporate abuses. The general scenario that with the setup of due diligence can be addressed is that of a big transnational company registered in the Global North operating through outsourcing processes in the Global South, frequently in a small country that depends on the activities of a foreign company while structurally embedded in a context of a *'fragile, dysfunctional and even corrupt state'* (Amaya Castro & Henao Zuluaga, 2022, p. 4).

1.2 Relevance and Justification

The current proliferation of such legislation, especially in European countries (European Coalition for Corporate Justice, 2022), poses the question about the meaning of such regulation for those, who are directly affected by the business operations, meaning whether it can serve them as a suitable tool to address the harm they are subject to. Empirically, due diligence is problematised insofar, as it stands in the tradition of other top-down efforts of value chain regulation which have ultimately failed to challenge the global status quo.

Reflections on the use of the *Loi de Vigilance*⁴ in the Colombian context can contribute to emerging literature assessing mandatory corporate Human Rights and Environmental Due Diligence legislation and stimulate related debates in the fields of Business and Human Rights and Accountability of Transnational Corporations. With a few noteworthy exceptions (i.a. Schilling-Vacaflor, 2021; Wuttke et al., 2022), so far this assessment has focused on the content, mechanisms, and level of stringency of legislation. By contrast, little attention has been paid to the local effects and meanings emerging at the sites of Human Rights violations in global value chains. To fill this gap, with the presented research I discuss the meaning of the French Duty of Vigilance Law for the victims of corporate abuses in the selected case. For those affected, this matters, as it breaks with a pattern of locating the capacity for redress in the Global North alone, by shedding light on local means of resistance and the contextual barriers to and effect of the French law (Lindt, 2020).

1.3 Objective and research questions

Accordingly, in this thesis, I aim to unpack the local meaning of mandatory Human Rights due diligence legislation. The objective is to examine the effect of introducing a new legal forum *in the context of other strategies* actors have employed to defend their interests. A particular focus on bottom-up strategies that victims of corporate abuses have developed locally to articulate their rights and needs is motivated by their absence in the processes of designing due diligence legislation and by problematising its origin through a world-systems perspective (Wallerstein, 1974).

More specifically, this objective was operationalised by focusing on a case study of the working conditions at Teleperformance Colombia and the local meaning of the French Duty of Vigilance Law. Accordingly, this research was guided by the question *How and with what effect have former Teleperformance workers engaged with the Loi de Vigilance in their struggle for better working conditions?*

⁴ Hereafter also: the *Loi*

1.4 Argument

Based on the research carried out, I will show in this thesis that the Duty of Vigilance Law has not led to a notable change for the people working at Teleperformance Colombia. More specifically, I advance a twofold argument:

I argue that the meaning of the *Loi* for the Teleperformance workers has been limited because first, there is a mismatch between the imaginary of the *Loi* and the situation on the ground. because multiple aspects of the real problem cannot be captured by the *Loi*. This becomes evident when considering (1) the profiles of the call centre agents, (2) the prevailing work culture and (3) the hampered reality of efforts of unionisation and other collective action, (4) the lack of local awareness and accessibility of the *Loi*, (5) in particular in a context of other available and accessible forms of contention that the workers use.

Secondly, by understanding the bigger picture in which not only the harm caused by companies in third countries is considered through a World Systems perspective, but also, due diligence legislation is understood in the tradition of other top-down value chain regulations, the political problem at the core become palpable. In this research, this is illustrated by (1) the lack of political will regarding enforcement, (2) the structural dependency the Colombian job market has on Teleperformance, and (3) the fact that problems on the ground seem to be of structural nature in the sector.

1.5 Outline

I shall now first briefly review the literature I seek to contribute to with this thesis, present the theoretical backbone of the thesis and lay out my conceptual framework. Chapter 3 is devoted to presenting and defending my methodological choices. The following section serves to briefly provide an overview of the law under scrutiny in this thesis.

The findings are presented and discussed in three separate chapters. The first revolves around presenting the general background of the case study. More specifically, taking the perspectives of the former Teleperformance as a point of departure, I sketch their work experience, identify the reasons for dissatisfaction and motivations for contention and map the perceived opportunity structure for resistance. On the one hand, this allows for understanding different structural aspects that lead to the reported harm in the first place. On the other hand, it is necessary for understanding the availability and outcomes of different mechanisms mobilised bottom-up and top-down.

I then turn to the bottom-up strategies the former employees of Teleperformance Colombia engage in to articulate their discontent. Conceptually, this step acknowledges the agency and creativity of the actors directly affected by corporate wrongdoings.

1. Introduction

Without acknowledging these and the meaning they unfold for the exercising workers, it is impossible to understand the meaning of a newly introduced top-down channel, namely the Loi de Vigilance in this context. In the last empirical chapter, I return to my initially posed question about the local meaning of the French law for the workers at Teleperformance Colombia in order to reflect on the barriers I identified. I end by offering some reflections on due diligence legislation beyond the here presented case.

2. Problematising and assessing due diligence as a way to address corporate abuse

2.1 Introduction

In this chapter, the theoretical backbone of the thesis is delineated and discussed. I thereby follow a world-systems perspective to explore how on a macro scale, the prevailing global structures shape the environment in which corporate abuse is perpetrated and the ability of those affected to access justice. Having elaborated on this underlying conceptualisation, I continue by offering a literature review of different top-down approaches to value chain governance to discuss their approaches and deficiencies and to embed due diligence legislation in this tradition. Thereafter, I briefly review the literature that has dealt with transnational litigation and due diligence in particular, deriving the literature gap I aim to fill with this thesis. For the empirical part of the paper, however, I mainly draw on the concepts of *'access to justice'*, *'repertoires of contention'* and *'weapons of the weak'*. This allows me to capture the nuanced approaches of bottom-up resistance in the context of labour relations at Teleperformance Colombia and thereby provide the background in which the French law has been mobilised.

2.2 World Systems Theory highlights global power asymmetries which allow for externalised harm in global value chains

If the problem is that of multinational corporations violating the rights of workers in third countries, then this pattern can be best understood through World Systems Theory. It departs from a structural Marxist perspective and is used as a lens to analyse the perpetuation of global inequalities (Wallerstein, 1974). It is useful because it allows us to comprehend the observed dynamics in global value chains, in which the parent companies of transnational corporations are situated in the *'core'*, the Global North, while the affiliates and subsidiaries are located in the *'periphery'*, the Global South. Importantly, the former are equipped with more economic power and state support than the production sites, which tend to have fewer resources, and legal and economic power (Amaya Castro & Henao Zuluaga, 2022). The underlying argument is then that through the strategic outsourcing of certain production steps to the *'periphery'*, economic development is furthered in the *'core'* regions, while the periphery falls further behind, ultimately increasing global inequality.

The unequal distribution of resources allows multinational companies to mobilise, among other things, economic and legal means to defend their interests and maintain their respective positions of power. This can be seen, for instance, in the drafting of trade agreements (Chang, 2002), but also in the negotiations for due diligence legislation (LeBaron & Rühmkorf, 2017).

On the one hand then, the posed problem of environmental and social harm caused by foreign companies can be explained structurally through World Systems theory.

Therefore, understanding the presented problem and the proposed solutions to it through a world systems lens allows us to capture the bigger picture and the political dimension of it. It reflects the global dynamics in which the *Loi* plays out and that creates the environment in which articulated grievances are both enabled and also sought to be governed. Accordingly, by looking beyond the economic practices and capturing the political enablers therefore, we can understand why tools for value chain regulation, that are designed and implemented in the core-regions must be problematised. I will therefore look into the local working and meaning of the French due diligence legislation to scrutinise whether it can indeed challenge the systemic aspects that allow the 'core' to externalise the social and environmental costs of their economies or rather reaffirms the global status quo.

2.3 A brief genealogy of value chain governance: Towards mandatory corporate Human Rights Due Diligence

As mentioned previously, rather than an entirely new idea, due diligence legislation must be comprehended in the tradition of other top-down approaches to address the social and environmental harm caused in global value chains. Importantly, both the violations and the channels offered for resolution emanate from the 'core', rather than the 'periphery'. In order to embed this thesis in the context of other approaches to the stated problem, this section provides a brief overview of this genealogy.

Adding Value to Businesses: Corporate Social Responsibility

Traditionally, businesses were only concerned with profit, this is challenged by the idea of Corporate Social Responsibility (CSR). It promotes the view that business operations should be conducted in a socially responsible manner. It has gained increasing popularity since the second half of the 20th century (Bernaz, 2016). Importantly, however, it is not an obligation but a voluntary commitment that companies can make. Often, persuasion tactics highlight that the reflection of societal values in business operations could benefit their market position (Auld et al., 2008).

Given the voluntary nature of CSR, enforcement mechanisms are weak or non-existent, as their stated purpose is to provide a 'learning network' rather than an accountability mechanism (Rasche, 2009). They often rely on consumers who are expected to reflect their values in their purchasing behaviour (Sethi & Schepers, 2014; Vogel, 2005). On the ground, this means little change for those employed along the value chains or otherwise affected by the companies' operations (McBarnet, 2009). This is demonstrated time and again when investigative journalism or major accidents reveal persistent risks and precarious working conditions for employees of multinationals in third countries.

Shared responsibility for states and businesses: business governance frameworks

If we locate the main flaws of CSR instruments in the absence of external enforcement mechanisms and their voluntary character, then it can be argued, that at least the latter has been addressed with so-called business governance frameworks as they establish a shared responsibility for states and businesses regarding human rights. Also, the current debates on mCHRDD legislation can be traced back to the 2008 UN Protect, Respect and Remedy framework and the corresponding 2011 Guiding Principles for Business on Business and Human Rights (UNGPs). The former encompassed three fundamental pillars that enshrined the state's responsibility to *protect* against human rights abuses perpetrated by third parties, the duty of businesses to *respect* human rights and the improved access to an effective *remedy* for victims (Ruggie, 2008). Having established this set of shared responsibilities for the public and private sectors with respect to human rights, the UNGPs provided the operationalisation in the form of practical guidelines and tools to encourage environmentally and socially responsible business conduct (United Nations, 2011).

This is the first time that human rights have been explicitly linked to business. Traditionally, the protection of Human Rights had been understood as the sole responsibility of states (Gustafsson et al., 2022). Thus, the business governance frameworks settle the question of voluntariness by establishing a corporate duty to act in an environmentally and socially responsible manner. Importantly, the scope of this obligation crosses borders and encompasses the entire value chain, confirming the concept of extraterritorial liability (*United Nations, 2011*). This means that if for instance, a French subsidiary in Bangladesh does not respect its workers' rights, workers, trade unions or NGOs can also attribute responsibility to the French parent company for violating their rights, given the power asymmetry between parent and daughter company. This is particularly important when abuses occur where the state cannot be trusted and prosecution of the daughter company is therefore less likely (Varvastian & Kalunga, 2020).

Yet, the enforcement gap persists since the UNGPs are soft law, therefore of advisory nature but not enforceable. This means that they will not necessarily make a difference to the victims in court (Schilling-Vacaflor, 2021; Zhao, 2019), but they do provide civil society actors, the press and trade unions with a richer toolbox for legitimising their claims and can inform, for example, name-and-shame campaigns (Pillay, 2014; Vogel, 2005).

The UNGPs may not be enforceable, yet they pave the way, as, for example, they have spurred a trend to adopt national action plans (NAPs) on Business and Human Rights, as states' efforts to meet their duty to protect human rights and beginning to close the enforcement gap. The UNGPs identified human rights due diligence as an appropriate tool for states and companies to achieve this goal. At the same time, however, due diligence is not seen as a '*magic bullet*', but as a complementary measure.

The Ruggie Working Group recommended the use of *'a smart mix of measures – national and international, mandatory and voluntary'* (United Nations, 2011, p. 5). Again, this underscores the importance of not reviewing the workings and effect of due diligence in isolation but embedding it in the context of parallel efforts to ensure the respect of human rights in business operations, including those emanating from the sites where the harm is caused.

Calls for a stronger state: corporate accountability through due diligence legislation

In Europe, in particular, we have seen civil society coalitions use this momentum to push for binding regulations enshrining corporate liability (for an overview check European Coalition for Corporate Justice, 2023). But similar efforts are also underway in countries such as Mexico and Honduras, and in Chile, the proposal for due diligence obligations had even entered the constitutional debate (Amaya Castro & Henao Zuluaga, 2022; Montiel Mogollón, 2022). Therefore, we can observe a broad call to move from non-enforceable, thus de facto voluntary, corporate social responsibility to legally mandated corporate accountability.

If we understand the problem of persistent corporate abuses in global value chains in terms of world systems theory, then the impunity of corporations for caused harm is what has been identified as the key point, that advocates of due diligence legislation have identified as a target to end abuse (Lindt, 2020). At the same time, the approach is not entirely new, as for instance the US Alien Tort Claims Act already offered a platform for individuals and communities who had suffered as a result of the behaviour of US companies abroad as early as the 1970s (Gilbert, 2012). Its meaning for those affected was in practice limited, however, as companies frequently managed to avoid adjudication by pushing for negotiated agreements or denying their responsibility in the first place, pointing to the fact, that the harm had occurred in a separate economic entity, the so-called separation principle. Ultimately, this leads to an individualisation of the problem and leaves the victims of corporate abuses empty-handed, or at least without legal recognition of the violation of their rights (Bernaz, 2016; Kirsch, 2020; Lindt, 2020).

The general approach: due diligence, administrative vigilance and civil responsibility

Despite this early example of domestic legislation stipulating extraterritorial duties of parent companies, it was only with the UNGPs that the idea of legally enshrining this obligation was picked up more widely (Bernaz, 2016; Schilling-Vacaflor, 2021). Nowadays, the specific design of due diligence legislation varies across countries, for instance regarding the scope in terms of corporate size and character (European Coalition for Corporate Justice, 2022), yet some shared characteristics can be remarked.

At the moment, according to Amaya Castro and Henao Zuluaga (2022), the emerging due diligence legislations share the following three pillars: 1) mandatory due diligence, meaning the obligation of companies to identify and respond to risks in the value chain 2) administrative vigilance, meaning the identification and commissioning of a monitoring and enforcing entity and 3) civil responsibility, that ensures the access to civic court for victims of corporate abuses. Compared to the earlier US law, one of the attributed strengths lies in the fact, that due diligence is supposed to bypass the separation principle which has served as a shield for multinationals previously. The general approach is to not necessarily make companies responsible for direct involvement in abuses but rather for failing the duty of care they owe as parent company (Lindt, 2020). Finding out what this means in practice for those who bear the harm caused by companies is the objective of this thesis.

2.3 Reflecting on the workings and effects of due diligence: Adding perspectives from the South

With this, I aim to contribute to an emerging field of literature that seeks to illustrate opportunities and limitations of due diligence legislation by taking perspectives from the South, thus the sites of corporate abuse, as a point of departure.

First strands of literature assessing due diligence legislation have mainly taken the UNGPs as a point of departure and evaluated how they have been translated into domestic legislation, focusing on the different governance approaches (Gustafsson et al., 2022) and the extent to which the different envisioned UNGP contents are being reflected (Macchi & Bright, 2020; Simons, 2014). Thereby, the focus is on the process of turning soft law into hard law and reflecting on the states' compliance with their duty to ensure the respect for human rights in business operations. Therefore, this field of literature remains of greater relevance for fields of law and governance but does not yet incorporate feedback from the empirical application of such law.

Approaching the selected case study, it must be remarked that both in comparative reviews (Macchi & Bright, 2020; Palombo, 2019) and in specific case studies, the French due diligence legislation has received particular attention. Importantly, however, constructive criticism has mainly been anchored in theoretical and legal analyses (Ewell, 2022; Savourey & Brabant, 2021) and has emanated from the Global North. The latter has been criticised, for instance, by Amaya Castro and Henao Zuluaga (2022) who look into the effect of an ever-growing due diligence legislation map for different actors in Latin America.

While different stakeholders such as states, civil society and the private sector are included, it remains a market-focused analysis which does not question the effect for the affected workers and/ or communities.

Rather, it brings to the fore a governance challenge for the Latin American countries that do not want to lose access to the European market, but therefore will have to accommodate the more stringent due diligence requirements.

As mentioned in the previous section, the emerging due diligence landscape is not the only way in which transnational court cases have been advanced. In the literature reviewing these procedures we can find authors focusing on the local effect of such processes.

Lindt (2020), for example, argues that in the necessary process of translation between involved actors in transnational litigation, tension emerges due to the present different understandings and expectations from the law. According to her, this explains a general trend of out-of-court settlements in these processes rather than achieving adjudication. Her work is crucial in illustrating the workings and impact of translation in transnational contexts by emphasising how the priorities of the lawyers at the sites corporate abuses are likely to get overpowered and disappointed in the process. Yet, her analysis remains limited to the legal sphere only and thereby fails to recognise other means, with which the actors in the conflict articulate their resistance.

Similarly focusing on the consequences of transnational litigation on the ground, Dunlap and Arce (2022) illustrate how the availability of transnational litigation also invites new stakeholders with new interests in the context of the disputed construction of a windfarm by a French energy company on indigenous lands in Mexico. They show how, because of the prevailing power asymmetries, the dynamics of local conflicts are thereby changed and ultimately the interests of the affected communities are not met. Focusing on the same case, though from the perspective of the Mexican NGO that was leading the process to take the company to court based on the Loi de Vigilance, Wuttke et al. (2022) build on their practical experience in the context to illustrate the advantages and challenges they encountered when applying the French due diligence legislation. The combination of these two papers is then illustrative for the problematic nature of providing top-down feedback, which is limited to the procedural legal experience, while disregarding the perceived effect for those directly involved in the conflict.

Finally, Schilling-Vacaflor (2021) rooted her criticism of the Loi de Vigilance by drawing on a case study of a conflict between an indigenous community in Bolivia and a French energy company. She checked hypothetically how an application of the law in that specific context could work and which barriers would arise. Her study draws on an in-depth study of a transnational conflict and captures local dynamics that have shaped the existing opportunity structure and thereby the prevailing patterns of resistance.

While the limitations she suggests are partly the outcome of a thought-experiment since the selected case has not really been brought under the Loi, yet, her analysis is therefore empirically grounded.

Even though in the case of Teleperformance the complaint mechanism of the Loi de Vigilance has indeed been triggered, the apparent lack of awareness of this process on the ground led my research in a similar direction as Schilling-Vacaflor's work, seeking to provide empirical reasons for why the local meaning of the Loi in the context is limited. Thereby, I go beyond the above-mapped landscape of literature that grounds their feedback on due diligence in content specificities regarding legal provisions and governance arrangements or that focuses on procedural challenges while disregarding the local conflict dynamics in which it is embedded and thereby ultimately the voice of those, who bear the harm caused by the company.

The need to look beyond legal fora

In addition to its mention in the UNGPs, the recent '*hype*' around due diligence legislation, especially in the Western world, can largely be attributed to two aspects: First, the persistence and increase of documented corporate abuses vis-à-vis their continued impunity. And second, a phenomenon the Comaroffs have coined the '*fetishism of law*'. They sketch an environment in which a discourse of rights and a faith, that law can settle all kinds of disputes prevails. This way law gains an ever-greater importance in our everyday life. The sociologists explain this observation by linking it to a time of uncertainties, in which law provides us with the promise to anticipate the outcomes of our actions (Comaroff & Comaroff, 2016). Having said that, in the Latin American context, the symbolic power of successful court cases for social movements and activists as strengthening their position in the political arena vis-à-vis more powerful actors has been underscored (Couso et al., 2010; Flemmer, 2018; Lindt, 2020; Sieder, 2020). This means that due diligence legislation can potentially turn into a crucial tool for victims of corporate abuses in Latin America and elsewhere, as long as the complexities and resulting challenges are reflected and adjudication can be reached (Eckert & Knöpfel, 2020).

At the same time, other scholars have problematised a reliance on formal state law in the context of disputes with transnational corporations. They point to the pitfalls for those affected due to power imbalances of knowledge or of financial, logistical or cultural nature which shape these procedures (Afrizal et al., 2022; Palombo, 2019). Similarly, others have cautioned that a purely legal approach to a dispute can obscure the political and social underlying conditions that have allowed for the problem in the first place, hence it bears the problem of depoliticising the problem at hand (Eckert & Knöpfel, 2020; Kirsch, 2020; Lindt, 2020). Besides, limiting my analysis to legal categories alone would not do justice to the objective of the thesis to capture the perspective of those directly affected.

So far, I have shown the limitations and deficiencies of top-down mechanisms for value-chain governance. Accordingly, I now explore strategies that root in the locations of corporate abuses, thereby acknowledging the creative agency of those directly affected. Further, by considering these it will become evident to what extent the deficiencies and challenges sketched above can be overcome through bottom-up approaches. To explore this topic further, I will now first draw on the concept of 'access to justice', which has also been mobilised in the due diligence debate.

2.4 Access to Justice

Access to justice is a buzzword, but there is not necessarily a consensus regarding its meaning. Many have taken as a starting point the UNDP definition of access to justice as '*the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards*' (UNDP, 2005, p. 5). Most importantly, this definition is useful because in the traditional understanding, 'justice' has been loosely linked to legal matters alone, and conceptualised from a state-centred approach (Sandefur, 2009). The UNDP definition, in contrast, broadens the scope of potential mechanisms by pointing to the availability of formal and informal institutions, thereby acknowledging the limitations of a state-centred approach and allowing for points of contact with a legal pluralist understanding. While in theory, this could allow for room for appreciating different interpretations of justice and the role of non-legal entities and actors for redress, a general frame in terms of international human rights norms is maintained. This is important because, despite their claim to universality, the understanding and application of human rights are by no means universal but are negotiated in the local context to fit the social and cultural order (Merry, 2006).

The part of the concept, that also serves as a third pillar of the UNGPs is arguably the most elusive: the notion of '*remedy*' or '*compensation*' is not further conceptualised, although, on subsequent occasions, it has been complemented with adjectives such as '*effective*' or '*appropriate*'. However, even these specifications do little to remove the elusiveness of the word but rather point to the fact that any evaluation of a chosen remedy is subjective (Lindt, 2020). Given that the aim of this thesis is to elicit the perspective of those who suffer harm caused by transnational companies, I will focus on their evaluation and point of view in the context of remedy assessment. While in some cases, this short-term interest is the most pressing need and is articulated by the victims of corporate abuse, it can mean, that the underlying social and economic conditions that have allowed for harm in the first place, remain unaddressed.

A second understanding links access to justice to the transformation of the underlying structural conditions that allowed the abuse to occur in the first place, thereby opting for a preventive stance. This approach then falls more in line with the considerations regarding World Systems Theory presented at the beginning of the chapter. At the same time, it brings a friction zone with the previously

presented interpretation to the fore, as transformation is envisioned on a macro-scale and sought as such through the presented value chain governance mechanisms. Given their roots in the 'core' however, any consideration of the contribution of the *Loi de Vigilance* to victims' access to justice must therefore also be anchored in reflections on whether, in the selected context, the *Loi* has been used as a tool to reproduce the status quo of inequalities in global value chains or to transform them.

In order to shed light on the perspectives of the affected workers, also strategies beyond the *Loi*, with which access to justice is sought, need to be explored. For this exercise, I build on the ROLAX (Rule of Law and Access to Justice) framework, a tool to guide empirical investigations developed by Bedner and Vel (2010). It builds on the UNDP definition and understands *access to justice* as a *process* by which a justice seeker has access to and uses certain strategies or mechanisms to obtain the justice he or she seeks. The procedural nature is expressed by the fact that the framing of the problem can change. This can be triggered, for example, by changing perceptions of the problem, the influence of emerging external factors, the actions or influence of new actors entering the field, or the use of a new forum for seeking redress.

The term '*opportunity structures*' has been coined by Sidney Tarrow (1993) and refers to the different factors that have an enabling or hindering effect on the ability of individuals or groups to engage in resistance. They can be of, among others, socio-economic, political or cultural nature and ultimately shape the forms of resistance that emerge. Accordingly, Bedner and Vel's procedural conceptualisation of *access to justice* can be understood as the way, in which actors reframe their problem and claims according to the perceived opportunity structure for redress.

The framework is used in this research mainly in two aspects: Firstly, it starts with the grievances as presented by the affected people as a real-life problem. This means, that for the case selection, I relied on legal terms since I seek to explore the social relevance of a legal mechanism in this paper. In the field, however, I had to reverse direction and start from the problems experienced by the workers to then understand what kind of support different available strategies and fora, among them the *Loi de Vigilance*, offer to those affected. This step is further crucial if we consider the socially constructed nature of conflict and the need for individuals to translate their suffering into grievances that can be heard and addressed according to the strategies they pursue (Tjandra, 2010).

Secondly, zooming in on the linked aspects of visibility and translation allows us to reflect on underlying power structures on the micro-and macro level, hence offering a connection to World Systems Theory. For this, following a Foucauldian train of thought, power must be understood in terms of political and economic means, but also in terms of knowledge (Foucault, 1990).

On the one hand, awareness of a particular mechanism is an indispensable requirement for actors to '*forum-shop*' and thus strategically target the forum where their needs can be best met (Araujo et al., 2019; von Benda-Beckmann, 1981). At the same time, access to specific institutional forums often depends to a large extent on the actions of third parties such as NGOs or the media, either by making the forum itself visible or by encouraging the admission of a particular case to the forum through public pressure (Pillay, 2014; Ryan et al., 1998). On the other hand, it needs to be recalled that the complaint mechanism of the Loi de Vigilance has so far always been triggered in cooperation with at least one European party. This poses a question of structural dependence rooted in a knowledge asymmetry that is key in the translation process and consequently the framing of appropriate justice or remedy (Lindt, 2020).

The central aspect in which I deviate from the suggested framework, however, is that I broaden the scope of '*fora*' for redress. Even though the authors invited customary and religious norms as appropriate benchmarks beyond formal state law, the available repertoire ultimately remains limited to the legal sphere. As mentioned previously, solely focusing on a legal perspective would contribute to a depoliticization of a conflict, meaning concealing the actual causes and dynamics of conflict (Eckert & Knöpfel, 2020). Further, it fails to acknowledge the existence and meaning of alternative and bottom-up approaches to seek redress.

While an overly broad definition would of course be of no analytical use, literature on social movements and collective action is helpful here to point out the pitfalls of limiting the scope of analysis to pre-established norms: There is an extensive scholarly tradition, particularly in the context of conflicts between companies and communities (Rasch & Köhne, 2016; Rodríguez-Labajos & Özkaynak, 2017; Svampa, 2019) and companies and workers (Gentile & Tarrow, 2009; Ponce, 2017) that has focused on the creative means by which resistance has been articulated and transformation or redress achieved. These alternative strategies and dispute mechanisms have been particularly useful in cases where there is a strong power asymmetry between the parties involved. Ultimately, problematising the assumed superiority of legal dispute resolution mechanisms compared to alternative remedies highlights the necessity to take into account bottom-up approaches which may or may not make use of legal means.

2.5 Capturing grassroots forms of resistance

Given the influence of different external factors that can either apply to an individual or to an entire group, it is therefore not surprising to find a variety of forms and strategies of resistance. Therefore, the literature on '*repertoires of contention*' (Tilly, 1983) Scott's (1985) notion of the 'weapons of the weak' and Hirschman's (Hirschman, 1970) '*exit, voice, loyalty*'- framework are invoked to explore and understand the different strategies employed by former Teleperformance Colombia workers or their allies.

In 1983, the sociologist Charles Tilly coined the concept of repertoires of collective action or repertoires of contention. He had observed that people tend to choose from a pre-determined set of actions and strategies to articulate their interests, providing them with a certain degree of predictability. It is the reflection on the process and the outcome achieved that determines the suitability of a particular strategy. According to Tilly, this set of tactics constitutes the repertoire that a particular group possesses and masters, while not necessarily intelligible to outsiders (Wolanski, 2019). Thereby, rather than a single action like a protest, the effect and meaningfulness of the repertoire are rooted in the strategic combination of different forms of contention (Tilly, 1983). Although not a traditional manifestation of collective action, it can be argued that recourse to the courts, or in this case the Loi de Vigilance, can turn into a tool of such a repertoire, it can become a '*part of a broader strategy to support them in their struggle*' (Lindt, 2020, p. 69) if it is perceived as effective by its users and repeatedly invoked. Ultimately, a forum or mechanism is only socially relevant if it is used and the justice-seekers see it as an effective tool to address their grievances (Tarrow, 1993).

Repertoires of contention are not fixed as such but can change over time to reflect the socio-economic and political conditions of the time. In the context of labour conflicts, an important factor has been the spread of neoliberalism, which Tilly himself saw as a fundamental challenge to workers' rights (1995). He points to how globalisation and the rise of global value chains have altered the social relations of work and the political framework in which interests and grievances have to be articulated. Where once the state had to respond to demands and trade unions had developed their strategies accordingly, the utility of this repertoire has been challenged by the reality of complex value chains in which the nation-state as a target for acts of contention is increasingly irrelevant. Succeeding in transnational labour disputes then requires an '*internationalisation*' of the repertoires of contention, involving the adaptation of political styles, translation and the telling and prioritisation of stories. This serves both to explore new appropriate channels for redress and to increase the bargaining power by forming transnational alliances (Gill, 2007).

This brings us to another important change from Tilly's original theory. His work is best understood in the context of industrial relations theory, in which trade unions are the central unit of analysis as the legitimate primary representatives of workers' interests (Atzeni, 2021; Nowak, 2021). However, they traditionally operate on a country-level, which limits their room for action in a globalised context. In relation to this thesis, it is then important to point out the involvement of UNI *Global Union*, a global trade union that claims to defend workers' interests, particularly in the context of multinational corporations and that had triggered the complaint mechanism of the Loi de Vigilance in 2019⁵ (UNI Global Union, n.d.). Further, other scholars have pointed to the manifestation of union activism beyond the workplace and its support by other parts of society, thereby indicating the persistent relevance of trade unions (Gill, 2007; Wolanski, 2019). Similarly, the discursive repertoire of the workers is no longer limited to labour rights, but depending on the type of regime in which the mobilisation takes place, different discourses may be more appropriate for their interests, such as civil rights or human rights respectively (Gentile & Tarrow, 2009).

On the other hand, while the existence of global union networks seems to be a promising development to meet the transnational labour reality, a more general criticism of repertoires of contention in labour conflicts revolves around the role of trade unions in the first place. Repeatedly, social science scholars researching labour relations have warned against oversimplifying the actions of workers with the actions of unions (Bieler & Nowak, 2021; Las Heras & Ribera-Almandoz, 2017). Oversimplification is a risk in the studies of resistance given the construction of an overarching binary dichotomy between the dominant and the resisting group – in the present case, between Teleperformance Colombia and its workers⁶. It thereby *sanitises the politics* of resistance, meaning it obscures internal power dynamics and everyday forms of resistance and organisation (Ortner, 1995). Further, it is relevant in places, in which trade unionism is either restricted or unpopular for various reasons. To overcome this limitation, I follow the suggestions advanced by advocates of global labour studies, aiming at capturing actions outside the workplace and detached from the requirements of formal organisation (Bieler & Nowak, 2021; Nowak, 2021; Tjandra, 2010).

⁵ For the exact procedure, please refer to [Chapter 4](#), a reflection on the role of unionisation is offered in [Chapter 7](#)

⁶ A problematisation of the subjectification of the company is provided in [Chapter 5](#)

Bottom-up approaches are not necessarily collective and organised: acknowledging the ‘weapons of the weak’

Seeking to capture the nuances on the ground, it is worth recalling that the repertoires of contention have most often been used to analyse collective forms of resistance. Before embarking on data collection, this seemed to offer an appropriate analytical framework for unpacking the labour relations at Teleperformance Colombia, not least because of the trade union’s leading role in triggering the complaint mechanism. On the ground, however, I soon found strong notions of individualisation rather than collective resistance. This does not mean, however, that the former call centre workers are passive actors. In order to make sense of the practices and strategies they use to cope with their everyday experiences at work, I use James Scott’s work *“Weapons of the Weak”* (1985) as a complementary framework to repertoires of contention.

His work sparked a rethinking of resistance as necessarily visible and organised. Drawing on rural peasants in Asia, he argued that in the absence of an overtly organised form of resistance, peasants, rather than being passive victims of exploitation, engaged in everyday activities that were covert in nature but allowed them to assert agency. Examples of everyday acts of resistance include foot-dragging, feigning ignorance, gossip, non-compliance, tax evasion, and other forms of non-cooperation. The specific practices match the contextual opportunity structures and are therefore creative and accessible (Hart, 2007). Here, the lack of visibility becomes a strength, as open forms of resistance can be detected and suppressed much more quickly.

For the individual, according to Scott, the weapons of the weak offer a means of gaining a sense of dignity and empowerment, by restoring some control over their lives and *‘often represent a form of individual self-help’* (Scott, 1985, p. 29). This is particularly relevant in the context of the call centre, where procedures are routinised, individualised and controlled (Taylor & Bain, 2003; Wolanski, 2019; Woodcock, 2016). Appreciating also those acts that primarily seek to aid a better living among the externally exposed conditions then means acknowledging that *“workers possess and perform a range of coping strategies and practices that help limit the negative experience of telephone call centre works”* (Hastings, 2011).

Although carried out on an individual level, the weapons of the weak also have a collective dimension. On the one hand, individuals can feel connected to a wider community, one that is united not only by the oppression they share and passively endure, but also by the resistance they actively live. On the other hand, their accumulated performance, while covert and meaningless to the dominant class at the individual level, can pose a tangible challenge to the dominant order. In this way, the use of the weapons of the weak at the individual level can lead to the building of social capital and even hold the potential for organising future collective action (Scott, 1985).

Exit, Voice and Loyalty

Finally, I complement the above strategies with Hirschman's (1970) thoughts on "exit, voice, and loyalty" as it allows for a better understanding of additional practices found on the ground. Importantly, both theories are of complementary character given that both focus on ways in which an individual can articulate discontent with a specific context. While Scott thereby focused on the '*hidden*' practices of everyday resistance, the by Hirschman suggested options '*exit*' and '*voice*' are less covert and more confrontational in nature, yet neither claims the exclusiveness of their presented strategies.

He argues, that when individuals are dissatisfied with the situation at work, they have two general ways of expressing this discontent: exit or voice. The latter means that the matter of discontent is named, and the individual seeks redress through negotiation. The former, in turn, is an individualistic response in the sense that it waives the opportunity of addressing the situation that led to discontent in the first place. Rather, it allows the individual to resist and gain relief and assume agency by withdrawing oneself from the situation of exploitation. According to Hirschman, it is particularly appealing when the outlook of achieving positive change is little promising. One aspect that affects the individual's decision between exiting and voicing is the agreement of attachment to the company, their loyalty, as it can stimulate the desire of staying in an organisation and seeking redress (Hirschman, 1970).

2.6 Conceptual Framework

The theoretical approaches presented in this chapter allow me to tackle both the micro- and the macro-scale of the initially posed problem. My research interest was sparked by a problem on the macro level, namely, the fact that multinational companies cause harm for humans or the environment in third countries. I have delineated this pattern by drawing on world systems theory. Further, this angle has allowed me to problematise the setup of due diligence as a '*core*'-'*periphery*' tool, questioning to what extent a transformative effect on the ground is to be expected as this would challenge the currently dominant position of the *core* regions. A brief literature review has allowed me to embed due diligence in the tradition of other top-down value chain regulations and to map the challenges that had been left for the individuals and communities affected by corporate abuse. Further, by sketching the scholarly engagement with transnational litigation in general and due diligence in particular, I have shown the literature gap to which I contribute with this thesis.

On a micro-scale, I look into the labour relations at Teleperformance Colombia, not only to see how workers have engaged with the *Loi de Vigilance*, but more generally to identify their understanding of the conflict at the call centre and to illustrate, that the law is by no means mobilised in a void, but in a context of other means of resistance. For this, I use the ROLAX framework as a point of departure to capture the real-life problem as perceived by the affected workers, rather than the legal framing thereof.

Drawing on their voices allows me to sketch a more complete picture of what is the perceived issue, and what is the space, the workers identify to address it. It becomes evident, that this opportunity structure is shaped by the global structures which have allowed for the popularity of call centre work in Colombia in the first place, but also by context-specific characteristics such as the profile of the call centre workers and the work structure -and culture. Against this background then, and with the help of different conceptualisations of grassroots resistance, I map the diverse strategies of resistance the call centre workers engage in. Thereby, said diversity is to be understood as an expression of the creativity with which the workers contest their situation, shaped by their differing socio-economic backgrounds and resulting priorities and expectations.

In the final findings chapter, I make the links between the two different levels visible and problematise the popularity of top-down solutions of value chain governance, such as due diligence legislation, through a world-systems perspective. By disregarding local efforts to address the exploitation of foreign companies, the prevailing global power asymmetry is once again reaffirmed and can turn into an ally of the companies rather than of the workers.

3. Entering the call centre world and navigating the field

3.1 Introduction

Before I started preparing for my fieldwork, I had never heard of Teleperformance, nor had I seen their logo. In the last decade, I had spent more than two years in Colombia, the last time in 2019. Now, I mentioned the topic to a friend from Bogotá in the Netherlands just before I left: *"Oh yes, I worked for them for about a month during the pandemic, I worked from home, it was actually quite nice!"* A few weeks later and a few thousand kilometres further south-west, in Cali: I'm meeting some old friends in the evening and ask them what they're up to now: *"I didn't like being a car mechanic anymore. I'm driving for Uber now, but I was actually thinking of doing an English course and then working for ... oh, what's it called? Tee... Tee, that call thing you know?" "Teleperformance?"* I help out. *"Yes, that, Teleperformance. You can actually make a lot of money there."*

Both episodes left me with the impression that this company was suddenly everywhere in Colombia and that it seemed to be well known. But also something else: I had read about rights violations and terrible working conditions, and yet I now got a different image, one that was more in line with the Google results when I searched for the multinational's name: things like *'best company'* and *'again awarded best place to work'* are among the first suggestions, illustrations of corporate social responsibility practices or positive work experiences are promoted with the hashtag #ProudToBeTP. I was curious to understand how these different perceptions and framings of Teleperformance came about on the ground. Was the attempt to correct the company's business practices through a French law a legitimate attempt to address rights violations in a third country, or rather a patronising act of imposing values of the Global North on the Global South, inventing a *'case'* where those affected do not actually see one?

This chapter provides an overview of the methodological approach I chose to answer my initially posed research question. Therefore, the purpose is to provide transparency and prove the suitability of the selected methods for my research. After presenting the general research design, I will briefly motivate the selection of the case. I shall then turn to a reflection on the different methods for data collection employed, the sampling strategy and research population and an explanation of how I analysed the retrieved data. I close the chapter by offering some reflections on ethics and inherent limitations of my study, discussing how I addressed these in the field and the consequences this has for the thesis.

3.2 Research Design

I opted for a case study design to explore the local meaning of due diligence legislation. This approach is useful because it allows for the collection of rich data and contextualisation. In line with my theoretical framework, this allowed me to capture the different creative forms of resistance, thus (Ortner, 1995). I combined different qualitative methods to complement and triangulate the research findings, thereby increasing the internal validity of the thesis (LeCompte & Goetz, 1982).

From early March to early May 2023, I conducted ten weeks of fieldwork in Bogotá to collect data. Although the company has expanded its locations to the cities of Medellín, Tunja and Barranquilla, and has more home-based employees in other areas of the country, Bogotá remains the location with the most employees. I also chose this location because I already had a network in the city that allowed me to get in touch with the first former employees.

The qualitative data I collected consists of 20 semi-structured interviews that I conducted with former Teleperformance employees (14), a workers' union representative, two legal experts, an external member of staff to the Ministry of Labour, a member of the Business and Human Rights Resource Centre (BHRRC) and an Advocacy and Litigation Officer of French Law Association Sherpa. Given the size of the companies and the number of workers in Colombia, it is important to remember that this research is based on the testimonies of a small sample. This data is enriched and complemented by the content of a Facebook group for call centre workers in Colombia, small talks and some primary documents. A more detailed overview of the methods used per research question can be found in [Appendix A](#).

3.3 Case Selection: The French Loi de Vigilance and Teleperformance Colombia

First of all, the French law was chosen because it has been acclaimed as a pioneer of comprehensive legislation of its kind (e.g. Ewell, 2022; Palombo, 2019). Furthermore, it has the longest history, having been adopted in 2017, and the monitoring of the complaint mechanism allowed the identification of cases in which the law has been mobilised so far. Restricting the choice of cases to this pool was necessary, as I wished to explore the impact of this legal forum in a context where awareness of the redress mechanism was given. Of course, this choice excluded a larger number of potentially qualifying cases in which the law has no effect simply due to a lack of local awareness. Given these initial criteria, it is all the more remarkable that during my fieldwork I did indeed encounter a lack of awareness locally. I elaborate on this in more detail in [Chapter 7](#).

The sixteen cases that have so far been brought under the complaint mechanism show diversity regarding the industries and the kinds of wrongdoings, thus confirming the comprehensive scope of the Loi (Sherpa et al., n.d.).

For the final selection among these cases, pragmatic criteria, including my own background to ensure the feasibility of the research were selected, such as language, other available research and access to the field. The case of workers' rights in Teleperformance Colombia met all these requirements and further, reading into the case, the fragmentary documentation and focus on singular instances of actions such as the filing of a notice under the French Loi de Vigilance, the resort to the OECD National Contact Point two years later and the recent involvement of the Colombian Ministry of Labour spurred several questions to contextualise the conflict further and explore the motivations and so far unreported strategies of the former⁷ employees. Most documentation on the case had been mainly in the hands of workers' unions and newspapers and is scattered. This research thus fills gaps regarding the controversies surrounding labour relations at Teleperformance Colombia.

3.4 Data Collection

Interviews were the core element of my data collection. I conducted a total of 20 semi-structured and informal interviews. All conversations with Colombian stakeholders were held in Spanish, the respondents' native language, enhancing the internal validity of the data (Edwards, 1998). The interview with the France-based Advocacy and Litigation officer was conducted in English. Semi-structured interviews are one of the most common methods in qualitative research. By preparing an interview guide for each interview, I was able to cover a topic that met the research objectives, while leaving enough room for probing and allowing the respondent to direct the interview. In this way, both the researcher and the participant have an active role in the conversation, allowing for insights into the perspective and subjective meanings of the research participant (Bryman, 2016). All interviews were preceded by obtaining verbal informed consent and explicit permission to record the conversation. Ensuring the anonymity of participants was also a particular concern given the violence surrounding business and human rights in the Colombian context (Business & Human Rights Resource Centre, 2020).

Furthermore, in this thesis, I used small talk for triangulation, although it is also present in the anecdotes that frame the thesis and are themselves testimony to my time in the field and the interactions, I had with different people regarding my research interest. Informal interviews, or small talk, are characteristic of ethnographic studies and are based on an appreciation of the unplanned and unstructured interactions the researcher may have in the field (Bryman, 2016). It is precisely because of this nature that recording is not always possible for planned interviews and the researcher relies on documentation through jotting and field notes made as soon as possible after the interview.

⁷ As indicated below, I unfortunately was not able to speak to current employees of Teleperformance Colombia.

While participants may already be aware of the purpose of the research, a reminder during the interview would most likely disrupt the natural flow and change the nature of the data collected. For that reason, it is also a grey area in terms of informed consent, the reason for which I limited the use.

Observations are a useful tool for bridging the gap between oral or written accounts and actual action (Bernard, 2017). While in the traditional sense, they are carried out in person, for my research the observation of an online environment proved insightful. The observation was not planned but arose during the fieldwork itself and can best be described as '*social media passive analysis*' (Franz et al., 2019). Initially, I was searching for more potential research participants in an open Facebook group, but I ended up detecting patterns in the posts and interactions of members that partially fit in with the hypotheses I had already drawn. Furthermore, this was the only space I had access to gain insights into the interactions of the (former) staff, which was particularly relevant given the sense of individualisation I had found. By now, the data that social media hosts has been widely acknowledged and considered insightful for studying the interactions of humans (Snelson, 2016). I, therefore, decided to build upon those for the next interviews and included the data I could gather through the observation of social media interactions as a valid source for this research. Based upon themes matching my research objective I manually extracted and analysed posts that fit into either or multiple of the categories.

The main concerns regarding observational social media research revolve around the protection of privacy as well as the veracity of published information. Further, the fact that participants are not informed about the research poses a grey area (Moreno et al., 2013). To address these issues, first, it needs to be stressed, that '*Call Center Community Colombia*' is a public group which means that members are informed that all their posts are publicly available, yet I do not disclose the identity of the people. Besides, rather than for primary data collection, I used the retrieved information to triangulate aspects I had either read in other papers or that had been mentioned by my respondents. The fact, that patterns in the group rather strengthened the suggested findings then contradicted them also rendered them more reliable.

Finally, both before and during the fieldwork I collected newspapers, reports and similar artefacts to supplement the information gathered and to triangulate the findings. Similarly, during the interviews, I asked for additional documents that might support the narratives of the interviewees, however, in the absence of organised or formal resistance, these were limited. Exemptions constituted some documents provided by the legal advisor of a former trade union and the Ministry of Labour representative. When analysing these materials, I considered the context of production and the intended audience, rather than treating them as neutral sources (Bryman, 2016).

3.5 Sampling Strategy

As mentioned above, I was able to start my sample thanks to personal contacts in Bogotá who put me in touch with the first interviewees. From there, I used snowball sampling to gradually increase my sample size. I usually invited participants for coffee in a local café at their convenience to increase the likelihood that they would agree to participate. I also approached two participants through the abovementioned Facebook group. Based on their posts, I expected them to be interested in participating and providing me with new insights into my topic. Of course, this is a biased selection of participants, but given my overarching interest in the apparent conflict surrounding labour relations and the difficulties I faced in finding initiatives of resistance, this seemed the most appropriate approach. Finally, I was able to conduct two more interviews rather unplanned in my daily routine, as I was open about my research in my interactions and in this way, I met people who were willing to share their experiences.

Accordingly, I used a combination of purposive and snowball sampling to select interview participants. While the former allowed me to target the participants I expected to have relevant knowledge for my research, snowball sampling is a common strategy to then expand the sample through suggestions from other research participants (Bryman, 2016; Goodman, 1961). Finally, I would like to stress that I use the term '*former Teleperformance employees or -workers*' as my research population. At the same time, I am aware that the group is much more heterogeneous and that different members of the research population have different interests and perceptions. I discuss this aspect further in [Chapter 5](#).

3.5.1 Research Population

Teleperformance has been operating in Colombia since 2009. The interviewees were all former employees, with the earliest having worked at TP in 2010 and the latest having left just a few weeks before the interview. Initially, Teleperformance's service offering was limited to Spanish-speaking audiences, although it is now best known as a bilingual or multilingual workplace. Apart from one participant, all interviewees in this research had been fully bilingual *customer service associates*⁸ during their time at Teleperformance Colombia. The main services the agents provide, include content moderation and customer service via chat or phone (Teleperformance SE). The focus of this research remains mainly on the latter, as all respondents worked in this way, and it remains the main service provided.

In a few cases, before starting the interview, participants asked me to confirm again that I was not conducting the research on behalf of Teleperformance. This could indicate a certain fear of the consequences of speaking negatively about the company.

⁸ Hereafter also *agents*

On the other hand, many seemed enthusiastic about the prospect of making their complaints heard and letting off steam. In practice, this led to situations in which it was assumed that I was primarily interested in capturing negative experiences rather than the different strategies and actions respondents took to deal with the perceived problems. This self-victimisation is a problem that has been documented by other researchers (Ponce, 2017; Van der Hout, 2022). When this issue arose, I addressed it by asking questions about coping strategies and the availability of external support mechanisms, and explicitly validating these experiences in an encouraging tone in order to obtain further information. This strategy was also useful and necessary to confirm the value of their testimonies when respondents reported not knowing about certain investigations, mechanisms or the existence of a trade union.

Prior to the fieldwork, I was not aware that most of my respondents had been through several call centres in recent years⁹. While it was fascinating to draw comparisons during our conversations, it must also be pointed out that since all the testimonies were given in retrospect, there may have been some mixing up of experiences at one call centre or another, affecting the internal validity of the findings. However, on the one hand, this is a common feature and risk in qualitative research, as it is directly related to how people remember (Bryman, 2016). On the other hand, this type of narrative also alerted me to the fact that the issues mentioned are not necessarily unique to Teleperformance, and generally allowed me to conduct more contextualised research by embedding my case study in the background of the call centre business in Colombia¹⁰.

While my main interest was initially to collect the testimonies of call centre agents, I soon noticed a growing curiosity to better understand the corporate structures that allowed and reproduced the grievances mentioned by my respondents. This interest arose, among other things, from the fact that it is usually necessary to work as an agent in order to obtain a higher position within the call centre, while, according to the experiences described by the respondents, it is from these positions that the pressure emanates. I was therefore pleased to speak to three people who had previously worked in 'higher' positions at Teleperformance. Their testimonies were of great insight into understanding the internal workings that reproduce precarious working conditions in Colombia's largest call centre.

Thanks to my host organisations, the *Universidad de los Andes* and the *Business and Human Rights Centre*, I had discussions with legal and other experts, particularly in the field of corporate liability. These semi-structured and unstructured interviews served both to better contextualise the research within the socio-economic background of the country and to place it within the broader developments in the field of due diligence legislation.

⁹ This aspect is further discussed as a strategy of resistance in [Chapter 6](#)

¹⁰ I elaborate on this point in [Chapter 5](#)

The main part of the data collection was completed at the end of the fieldwork in early May. Unexpectedly, I heard back from the Sherpa Law Association six weeks later, when I was already analysing the data. As I still considered their insights highly relevant to my research, I conducted an additional interview with an Advocacy and Litigation Officer at the end of June.

3.6 Data analysis

I transcribed the interviews for analysis. Analysing data in the original language of the respondent has the advantage that intentions are less likely to be lost and respondents' perceptions can be more easily taken into account in the analysis or the coding process itself, I used thematic analysis, combining a deductive and inductive approach. The former allowed me to integrate insights from my theoretical framework and make sense of the data by following lines of reasoning suggested by my theoretical pillars access to justice, repertoires of contention and weapons of the weak and world systems theory (Bernard, 2017). At the same time, however, my stated starting point was the data I had collected, and I, therefore, let my initial analysis be guided by the realities I encountered during my fieldwork. This flexibility constituted the inductive component of the data analysis and allowed the limitations of pre-determined categories to be recognised (LeCompte & Goetz, 1982).

3.7 Ethics and Limitations

3.7.1 Positionality: Familiar with country and culture, yet visibly an outsider

Having lived in Colombia for over two years in the past, I am not only fluent in Spanish but also familiar with the local culture and customs. These aspects were helpful in connecting with research participants and building rapport. At the same time, however, I am visibly not Colombian and therefore remained an outsider. This was palpable, for example, when participants emphasised that it was great *'to also have the international support now, the support from Europe'*¹¹. The challenge is here in not reinforcing a global power asymmetry between the researcher and researched and further realistically managing the expectations of the respondents (Van der Hout, 2022). While I emphasised that I was genuinely interested in capturing the perspective of the former workers in order to develop critical feedback on the local functioning of the Loi de Vigilance in the context of TP Colombia, I also continually emphasised my position as an MSc student in order to be transparent about my sphere of influence. In order to be fully transparent with the participants, I informed them of my affiliations with the WUR and my local host organisations, the *Universidad de los Andes* and the BHRRC, although no conflict of interest is to be declared. As a general measure to reduce positionality in this thesis, I took field notes throughout the data collection process. This facilitated contextualisation, the elicitation of assumptions and the adjustment of the research design according to preliminary findings (Berger, 2015).

¹¹ Interview 9, 10/04/2023

3.7.2 Skewed research population

Having presented an outline of my sampling strategy and research population above, a few further remarks in that regard must be made. There are a few stakeholders I wanted to speak to, though it was not possible in practice. This ultimately had an impact on my position in the field and on the findings presented since the perspectives I could integrate are limited as follows:

First, I was hoping to have a larger sample and, especially, to also speak to current employees of Teleperformance. Also, as is evident in [Chapter 5](#), the pool of participants is biased towards youth and people who have attended higher education. While this seems to be widely representative of the context (Galindo García, 2022; Publicaciones Semana S.A., 2018; Romero Gutiérrez, 2021), it also means that some nuances of the more heterogenous workforce could not be captured.

In general, recruitment was more difficult than expected and there were many cases where interviews were cancelled, or potential participants stopped responding at some point in the interview process. I suspect a combination of a lack of incentive to participate, mistrust and fear. After a polite follow-up message, I usually would also not insist any further to not be an '*unequally exploitative researcher*' (Van der Hout, 2022), given the little reward the (former) workers seemed to expect from participation.

Second, I had identified UNI Global Union, one of the organisations that had put Teleperformance on notice in 2019, and its Colombian counterpart, the UTRACLARO union for workers in the ITC sector, as key stakeholders. Despite several attempts through different entry points, I was unable to speak with representatives or members of either organisation. The former said that they could not comment on the latter, while UTRACLARO initially expressed interest in the research and then met any attempt to communicate with them with silence. For me, this refusal to participate was met with scepticism, as I had already noticed before the fieldwork that UNI had removed all documents criticising Teleperformance from their website¹².

Finally, it should be emphasised that I did not contact the management or other representatives of Teleperformance. While this is undoubtedly an important limitation to the data on which this research is based, it was a conscious decision not to include the company's voice in my sample. Since the company was alerted, there has been an update to the vigilance plan and some public statements about the actions taken (e.g. Teleperformance SE, 2021). However, my main interest in this research is not in the actions announced or taken by the company itself, but rather in the perceptions and perspectives of the employees, to find out whether change is tangible for them on the ground.

¹² I have reason to believe so, given a series of broken links to the union's website, for instance from the documents of [Sherpa Law Association](#), the [Business and Human Rights Resource Centre](#), but also the [union's social media](#). Fortunately, I was able to recover most of the mentioned documents.

3.7.3 Fieldwork approach

A general disclaimer I would like to make concerns research design and the availability of research methods. Especially when looking at the strategies of everyday resistance that I discuss in [Chapter 6](#), I became very aware of the pitfalls of not having conducted long-term ethnographic fieldwork as a call centre agent myself. Now, all the strategies presented in this chapter are drawn from the off-site interviews conducted. It is therefore important to recognise that the list is by no means exhaustive and that there are likely to be other strategies in use that could have been uncovered either through extended participant observation on-site or through a larger sample size. However, both of these options were beyond the scope of this MSc thesis, and it must also be borne in mind that, unlike other studies that have explicitly sought to identify and illustrate the '*weapons of the weak*' in the call centre (Alves, 2021; Hastings, 2011; Ponce, 2017; Taylor & Bain, 2003; Woodcock, 2016) this study was not designed to do so. Rather, the premise of that section was to capture the context that shapes the meaning that local workers attach to the Loi de Vigilance. Finally, given my positionality in the Colombian context, it is also questionable whether I would have been able to gain access as a worker at Teleperformance.

3.7.4 Temporal Scope of the Thesis

Data collection was, with the exception of one final interview, stopped with the end of my fieldwork, therefore any developments after May 2023 are not considered in the analysis. At the same time, however, the theoretical possibility of further developments in the OECD or Loi de Vigilance procedure remains¹³. Further, the first outcomes of the government investigation into the issue were presented towards the end of my time in Bogotá, including promotion of union activities. This remains an interesting issue since it was one of the initial demands brought forward in the conflict, though after all, any changes on the ground would most likely need more time to materialize.

¹³ Also stressed in interview 20, 22/06/2023

4. The *Loi de Vigilance* and workers' rights at Teleperformance

4.1 Introduction

Before delving into the empirical findings and their discussion, in this chapter I briefly present the mechanism under scrutiny in this thesis: the French *Loi de Vigilance*. After having mapped its general structure and functioning I present the formal notice that initially directed my attention to this case study. Thereby I map the legal interest in the labour relations at Teleperformance Colombia before contrasting this picture with the situation I found during my fieldwork on the ground.

4.2 The *Loi de Vigilance*: background and structure

The French *Loi de Vigilance* has been widely acclaimed for its approach and accordingly has served as a blueprint for other countries. Even though earlier examples building on the UNGPs can be found for instance in the UK Modern Slavery Act (2015), the Dutch Child Labour Due Diligence Law (2019) or the EU Conflict Minerals Regulation (2016), the French *Loi relative au devoir de vigilance des sociétés mères et entreprises donneuses d'ordre*¹⁴ heralded a new era in terms of due diligence legislation. Two changes compared to the previously mentioned laws must be stressed in that regard: Firstly, it is more comprehensive than other legislations that have been issue-specific and tend to centre around high-risk sectors and the prevention of forced labour or child labour as particularly severe Human Rights violations (Botta & Methven O'Brien, 2022). In contrast, the *Loi de Vigilance* conceptualises corporations' duties in the areas of human rights, fundamental freedoms and health and safety and the environment. Secondly, it moves beyond reporting and transparency requirements by providing an enforcement mechanism with sanctioning and remedy capacity (Macchi & Bright, 2020; Palombo, 2019). The French law applies to companies headquartered in France and retaining a minimum of 5,000 employees in the country or a minimum of 10,000 employees globally (Beau de Loménie, 2019). For those companies, social and environmental care in their operations is hence no longer a voluntary commitment but a legally binding obligation.

Component I operationalises due diligence through the adoption, report and enforcement of a vigilance plan

It can be disentangled in two components. The first one is of preventive nature and establishes the principle that parent companies hold the duty to identify and act on actual and potential risks in their entire value chain. It is operationalised through the adoption, reporting on and enforcement of a vigilance plan. This plan must include 1) a mapping of risks including their identification, analysis, and prioritisation 2) procedures for regular risk assessments along the entire value chain, 3) actions for risk mitigation and harm avoidance, 4) a notification and complaint mechanism set up in collaboration with internal trade unions and 5) a monitoring and evaluation mechanism for the envisioned measures.

¹⁴ Law on the Duty of Vigilance of Parent and Instructing Companies

Thereby, the plan is to be elaborated in collaboration with the 'relevant stakeholders', covering the entirety of the corporate group as well as businesses 'with whom they have an established business relationship' (Beau de Loménie, 2019, p. 80).

Component II spells out the conditions for establishing a breach with due diligence and the subsequent procedure

The second component is the enforcement mechanism which hence constitutes the element that ultimately makes the difference between a soft and hard law instrument, recalling one of the most prominent criticisms of the former and settling the question of extraterritorial liability of multinationals (Macchi & Bright, 2020). To claim a violation of the company's

due diligence, the claimant must prove three things. First, a caused damage; second, the company's breach of one of the established vigilance obligations; and third, a causal relation between the breach and the caused damage. If all conditions are met, the company can be put on formal notice. Following notification, it has three months for rectification without facing any legal or financial consequences. This matters not least, since employees or other actors affected by corporate conduct may continue to suffer a violation of their rights without being able to hold the responsible parent company liable for their (in)action as long as it has met the vigilance plan's requirements (European Coalition for Corporate Justice, 2018).

Only then, the company can be taken to court to achieve compliance, including under the use of economic sanctions (Ewell, 2022). Having established the liability of the parent company, it can then be required to remedy any damage that the execution of these obligations could have prevented, and the French civil code can be invoked.

Overview Law on the Duty of Vigilance of Parent and Instructing Companies

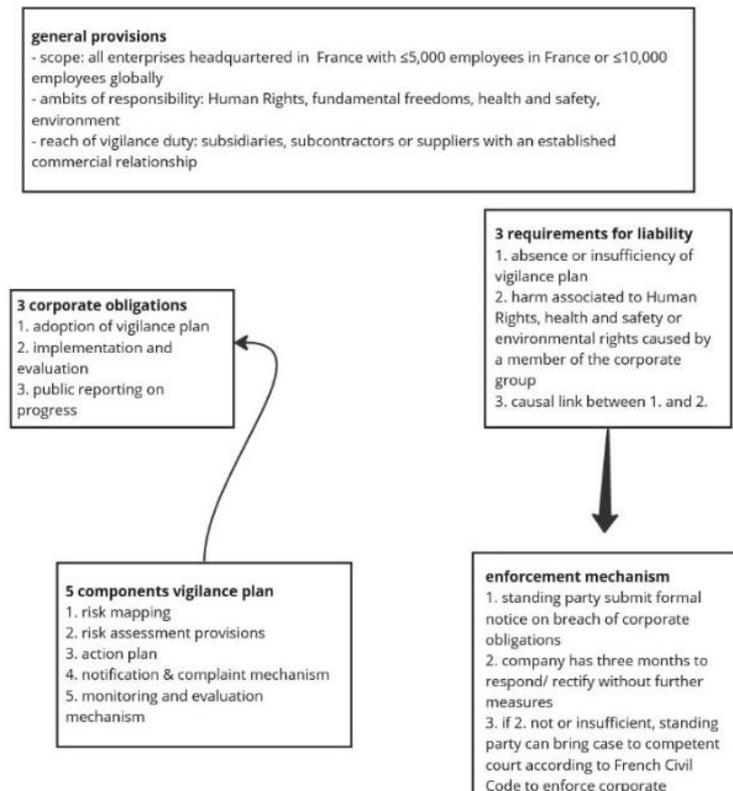


Figure 1: Overview Loi de Vigilance (elaboration by the author)

For the victims of corporate abuses in third countries, this means that they now have access to the French judicial system to obtain remedy, which has been depicted as an advantage especially where host states are deemed incapable or unlikely to provide compensation (Lindt, 2020), an aspect to which I shall return in [Chapter 7](#).

Nearly six years after the adoption of the Loi de Vigilance, the monitoring website¹⁵ has registered a total of nine filed lawsuits against French parent companies. On another seven occasions, corporations were formally notified about alleged breaches of the 2017 law (Sherpa et al., n.d.). In terms of content, the cases cover a wide range covering issues of climate change litigations, land struggles, workers' rights, human rights, indigenous and territorial rights, and war crimes (Brabant & Savourey, 2020). The range of companies put on notice or sued is similarly diverse. Both aspects confirm the comprehensive character of the Law.

Despite its promising layout, there also has been criticism

Despite the widely positive responses to the French Law, some critical remarks have also been made. Mainly, they have revolved around the burden of proof resting with the victims (Ewell, 2022; Macchi & Bright, 2020; Palombo, 2019; Schilling-Vacaflor, 2021), a lack of administrative responsibility to ensure monitoring and enforcement (Amaya Castro & Henao Zuluaga, 2022; Schilling-Vacaflor, 2021), a reliance on '*partners*' in the Global North (Das & Hussain, 2017; Dunlap & Arce, 2022; Lindt, 2020), its delayed character (Ewell, 2022) and its questionable preventive capacity (Gustafsson et al., 2022). I will return to these points of criticism in more detail in [Chapter 7](#) when presenting and discussing the limitations of the Loi de Vigilance that have become apparent in the presented case study.

4.3 The case of Teleperformance Colombia and labour rights

In 2018, shortly after the adoption of the Loi de Vigilance, several trade unions of Information and Communication Technologies (ITCs) published a joint statement urging the French government to apply the Loi to ensure the effective protection of the rights of employees of Teleperformance (UNI Global Union, 2018).

Syndex, an independent consultancy organisation analysed the 2019 Duty of Vigilance Plan provided by Teleperformance and alleged its non-compliance with the provisions stipulated in the law. This means they linked the prevailing deficient conditions in Colombia and other TP locations to a breach in the duty of care by the French parent company. More specifically, the risk mapping was found to be insufficient and had been drawn up without the engagement of stakeholders such as unions.

¹⁵ <https://vigilance-plan.org/court-cases-under-the-duty-of-vigilance-law/>

Further, the focus on the company's locations in Europe was interpreted as a strategic choice given that some of the non-European countries in which Teleperformance retains most of their employees are listed as common hosts of labour rights violations. Lastly, in this plan, no complaint- and monitoring mechanism was envisioned (Sherpa, 2021; Syndex, 2019).

Against this background UNI Global Union and French Law Association Sherpa put the company on notice for non-compliance with the Loi de Vigilance in July 2019, the first step of the enforcement mechanism. Shortly after, the MNE replied and assured its efforts to provide a revised and enhanced vigilance plan drafted in collaboration with '*all its internal and external stakeholders*' (Business & Human Rights Resource Centre, 2019). The second step of the enforcement mechanism, the filing of a lawsuit against Teleperformance, has to the date not been taken. This is striking given that civil society organisations continued to detect insufficiencies in the follow-up plans and a complaint was filed under the OECD Due Diligence complaint mechanism (García Estaban & Patz, 2021; UNI Global Union, 2020).

For example, concerns about Teleperformance Colombia had previously figured prominently in a report by UNI Global Union, in which a series of human rights and labour rights abuses endured by employees had been documented. Among these are non-compliance with wage payments, cases of gender-based discrimination, violation of individuals' privacy and union busting (UNI Global Union, 2019). In November 2022, the Colombian Ministry of Labour (MinTrabajo) opened an investigation against the company due to alleged breaches of labour rights, calling on current and former employees to denounce corporate wrongdoings (McIntyre et al., 2022; Vargas, 2022).

This trajectory summarises key points of organised top-down actions that had targeted the working conditions at Teleperformance. What remained unclear, however, was how the situation on the ground at led to the invocation of the French law. Further, the persistence of documented human – and workers' rights violations in Teleperformance's daughter companies (UNI Global Union, 2022) raise questions about why the enforcement mechanism of the Loi de Vigilance has not reached the second stage. If the actions of the company following up on the notification were deemed sufficient to meet the duty of care as a parent company while allowing grievances on the ground to persist for the affected workers, this ultimately questions the meaning of this piece of legislation. I will further elaborate on this train of thought by looking into the challenges of mapping the problem on the ground onto the *Loi* in [Chapter 7](#). First, however, I shall now turn to the situation on the ground to see, where the image evoked by the formal notice matches the reality and serves the interests of the affected workers.

5. #ProudToBeTP: Making the Call Centre

5.1 Introduction

In this chapter, I will present and discuss the empirical background to the labour conflict unfolding at Teleperformance Colombia. First, I outline who works at the company. I argue that there are common characteristics among the TP agents that allow for understanding why certain corporate practices are being ostensibly tolerated by the workers by contrasting between those who have little interest in investing in their workplace as it is a temporary occupation, and those, who, in the context of a challenging job market, rely on their job at the call centre. Second, I briefly discuss the everyday experience of working at Teleperformance Colombia, including the problems that call centre agents face. Following my conceptual framework this serves to capture the problems as perceived by the workers, rather than presenting them in legal terms.

Finally, by looking at the internal organisation of work, I propose a final contextual aspect that is necessary to understand the types of grievances reported and the motivations of the individuals to engage in different forms of contention. In this way, this chapter aims to present the environment in which grievances can arise and the factors that shape the '*opportunity structure*', thus determining the forms of coping mechanisms that can emerge in this context. Accordingly, the chapter has three objectives namely (1) to map the work experience, (2) to identify the reasons for dissatisfaction and hence the motivations for contention and (3) to map the opportunity structure for resistance. This provides a sound basis for [Chapter 6](#), in which I present and discuss different forms of contention.

5.1 "*Somos los niños ricos independientes*"¹⁶: Images of the call centre agent

In this section, I will briefly sketch the workforce at Teleperformance Colombia. David's¹⁷ quote in the heading provides a framework for linking the characteristics of the '*average*' call centre agent and why they matter in the context of prevailing labour relations. As explained in [Chapter 3](#), of course, I had a limited sample size and the pattern, that I present here is shaped by the unintentional bias in the participant group. Not least, this is important to recall, for avoiding a sanitisation of the complexities of the presented situation (Ortner, 1995). Of course, there is a more heterogenous group of individuals that works at Teleperformance Colombia, and they are affected differently by the prevailing working conditions.

¹⁶ 'We are the rich independent kids', Interview 19, 04/05/2023

¹⁷ All names used in the thesis are pseudonyms to protect the respondents' identities.

Yet, the data gathered from the interviews and supplementary works on the call centre industry in Colombia (Castaño-Ravagli, 2017; Romero Gutiérrez, 2021; Torres, 2022), suggest, that there is indeed a significant number of the agents can be described by the characteristics I present subsequently and that can allow for reflections on hampered collective efforts.

I argue that the agents are mainly young (*niños*) and therefore lack a frame of reference for their work experience, while productive since new to the job market. They are socio-economically speaking from the (upper) middle-class (*ricos*), which means that they are not completely economically dependent on the job, giving them greater flexibility, and placing the threshold for action higher. And finally, they are independent (*independientes*), again, in the sense that to a certain degree, they don't identify themselves with their job as agents, but they tend to be qualified for other positions and therefore consider their call-centre being as a temporary chapter in which they are not too invested. By combining these aspects, I argue that Teleperformance is recruiting a workforce from which, for a variety of reasons, relatively little resistance is to be expected.

5.1.1 *Niños* – targeting the youth

Just as the call centre industry is relatively, so is the average call centre agent. All the respondents for this research were between their mid-twenties and mid-thirties. Yet, it is also the image that Teleperformance promotes as an employer: Advertised promises are attractive to the youth, starting with the architecture of the sites of operations, the bilingual 'cosmopolitan' working vocabulary, which was also used in our conversations, the occasional concerts by contemporary artists (TP Fest), the flexibility of working from home and the opportunities for professional development (e.g. Publicaciones Semana S.A., 2018)¹⁸.

Several respondents agreed that this image was a well-thought-out strategy of the company¹⁹. David summed it up as follows: *“When you're young, first of all, you don't know your rights, second, you have a lot of energy and third, you don't really give a damn about your work”*²⁰. He suggests that by hiring a workforce of mostly inexperienced workers, many have no frame of reference with which to compare labour relations, neither are they usually knowledgeable about their rights as employees and are not emotionally attached to their work.

“And because it was my first call centre, I told myself that probably that's just the way it is, and I accepted it. Because it was my first experience... Now I know that it's not normal.”

Valentina, Interview 7, 30/03/2023

¹⁸ E.g. Interview 5, 27/03/2023; Interview 9, 10/04/2023; Interview 19, 04/05/2023

¹⁹ Interview 12, 20/04/2023; Interview 9, 10/04/2023; Interview 19, 04/05/2023; Interview 4, 24/03/2023; Interview 2, 22/03/2023

²⁰ Interview 19, 04/05/2023

These characteristics of the Teleperformance employees were confirmed by the narratives of the other respondents either directly or indirectly through the way they framed their work experience.

For instance, Alejandro admitted: *“On a personal note: one is very ignorant regarding the judiciary, the laws and the rights you have as a worker. And that’s what happens with the majority of people that enters the call centre, it’s young people who speak English and who look for a temporary job”*²¹. David, in turn, continued *“Nobody here knows their rights, literally nobody. [...] And I tell you ignorance is the best way to keep people obedient. If the people don’t know what their rights are, they don’t know what to advocate for”*. It thus becomes clear how the lack of knowledge turns on the ground into an advantage for ensuring productivity and discipline at the workplace – I return to this point in the last section of this chapter.

5.1.2 *Ricos* – weapons of the ‘weak’?

In general terms, it is important to capture the socio-economic background of the workers as these factors shape the individuals’ motivations, expectations and actions toward work experience (Hastings, 2011). Most interviewees in the research share that they do not live on the bare minimum. A similar finding has been suggested by other articles focusing on the call centre industry in Colombia (Castaño-Ravagli, 2017; Romero Gutiérrez, 2021; Torres, 2022). Many of them hold a university degree, others at least started one, and their English level is good enough to pass the entrance exam for the bilingual campaigns, which in Colombia tends to be indicative for a more privileged access to education.

In the Colombian context this means, that the envisioned call centre agent is thus one who has the privilege of a certain educational – and therefore economic background. However, it means that they are in a situation in which they do not have to count every penny. This was visible for instance in the example of Valeria and Lina who both unsuccessfully requested time off for going on vacation. When their requests were rejected, they simply quit. In a similar vein falls Santiago’s comment on when he noticed an underpayment of his salary: *“[...]This happened to me multiple times but well, I did my thing and as long as I could pay my bills, I was fine.”*²² Apparently, it was easier for him not to take action as it seemed to be a greater hassle and less rewarding for him than not doing it. Another reason could be, that it was a wrongdoing that would only affect him for a foreseeable time which made it easier to bite his teeth. Again, it should be noted, that it would have been hard to find a job with a comparable wage for him, but also the fact, that Santiago had other professional aspirations than staying at Teleperformance. Both aspects probably diminished the incentive to deal with the accounting department of the company.

²¹ Interview 6, 29/03/2023

²² Interview 3, 24/03/2023

5.1.3 *Independientes*: a temporary occupation

His mindset was reflected by several of the respondents, as most framed their job as a transitional stage. Even though in general the environment among the colleagues was described in positive terms, including going for the occasional drink together, the mindset of seeing the call centre as a temporary stage of life creates a setting, in which the individual is more detached from the workplace and, as a result, probably less inclined to invest in it, and as we will see later, this can be one aspect explaining the absence of collective forms of resistance (Hirschman, 1970).

Apart from David, none of my respondents entered the call centre industry with the plan of staying there to build a career: Santiago had given himself a financial target to start his own business, Paula wanted to improve her English, Valeria and Juan David combined studying with working full-time at Teleperformance to pay their studies, just as Lina. Leidy, Julián, and Felipe just wanted to bridge some time. After all, framing the work as a temporary chapter only can also allow the individual to stay motivated and put up with the experienced problems *'in the meanwhile'*: *"I had the mentality that it was a temporary job and that I had to do what I had to do while I kept searching for something else."* explained Leidy²³. This framing of their job also hints at a low level of self-identification and satisfaction with their occupation, which can contribute, again, to a lower incentive to invest in their workplace in the widest sense (Alves, 2021; Hirschman, 1970). This was also visible, for example in despicable side notes during the interviews: *"[...] Until that point, I was, to put it that way, happy with what I was doing – Yes, in Teleperformance – that sounds very depressing, right?"* Marco remarked in a joking way²⁴. Yet, it gives a clear idea of the low opinion he holds of a job in the industry.

5.1.4 A more nuanced picture: the rich disinterested kids and those who have to fear for their job

At the same time, the picture on the ground is more nuanced (Bieler & Nowak, 2021; Nowak, 2021). The workforce at Teleperformance is of course more diverse than the images of the call centre agent presented above and, there are also many people who work at TP out of necessity. For example, Felipe and Valeria²⁵ saw it as the only way to finance their studies and hope for a better professional future. Natalia and Paula²⁶ both mentioned that their salary was infringed so much, that they ended up seriously struggling. Also, Natalia's friend still works in her previous campaign *"And well, he tells me that because of the economic uncertainty in Colombia at the moment he cannot let go of that job, that any income is a blessing for him but that really, the situation has not improved since I left"*²⁷.

²³ Interview 13, 20/04/2023

²⁴ Interview 16, 28/04/2023

²⁵ Interview 10, 17/04/2023; Interview 4, 24/03/2023

²⁶ Interview 9, 10/04/2023; Interview 12, 20/04/2023

²⁷ Interview 12, 20/04/2023

What comes to the fore here again, is the context of the Colombian job market I mentioned in the introduction of the thesis. Against the background of high figures of unemployment the promises of a secure income that even promises to exceed the average wages offered by other employers, turns into a compelling argument to make certain concessions regarding working conditions, as long as it allows to maintain oneself and one's family. Further, it is also this background that has to be borne in mind when presenting the strategies of resistance in the next chapter: It suggests not only explanations for the present fear of engaging in overt forms of contestation, but also, for why the selected practices primarily seek to improve one's own situation.

The point is then, that on the one hand there is a large group of employees who are simply not interested in investing in improving work conditions since their time at the call-centre is viewed as a temporary chapter only. On the other hand, for people like Paula or Natalia, arguably, there is more at stake as they fear losing their job if they take action. At the same time, the characteristic of being little knowledgeable about their rights since the call centre is an early work experience also applies beyond the 'rich independent kids'. The resulting situation is then one, in which those who actually do want to take action do not only have to face consequences from the company, but also one, in which getting support for their demands from fellow workers is much more challenging as the lack of action of others partly discredits their claims and thereby inhibits acts of solidarity. I return to this argument in [Chapter 6](#) when discussing the role of humour and gossip.

5.2 Everyday experiences at Teleperformance Colombia – A great place to work?

The careers section of Teleperformance's website features a large badge, touting its recognition as a '*great place to work*' – it is the already earlier mentioned contrast to the reports that initially drew my attention to the labour relations at TP Colombia.

I will therefore now first focus on the day-to-day experience of working at the call centre. Importantly, in presenting the reported issues, I follow the ROLAX approach and focus on the problems as perceived by the workers. Again, this is useful for capturing the reality of labour relations on the ground beyond existing legal categories to avoid depoliticization and to sketch a more holistic picture. Reflecting the different client companies a call centre serves, when being hired, the agents are matched to a campaign according to their profile, meaning they work for instance in the customer service of one specific client company of Teleperformance. The customers are then the individual callers that, according to the campaign, the agents attend in their daily work.

5.2.1 Routinisation, High Targets, Pressure and Stress

When the conversation with the respondents was steered towards aspects of discontent, by far the most common issue raised was the perception of work routines as stressful and tedious. It is the routinisation of work processes through scripts that leads to boredom, the disrespectful treatment from clients during calls, and the volume of calls that needs to be successfully handled in a certain amount of time (see also Ponce, 2017; Taylor & Bain, 2003; Wolanski, 2019; Woodcock, 2016).

Work procedures are meticulously routinised through scripts that guide the interactions with the customers: *“This is how it works in a call centre – they give you a campaign manual and you have to memorise a lot of information that doesn’t even bother you, but this is where you find the step-by-step of what you have to do in case of certain problems”*²⁸ stated Alejandro. On the one hand, this is a way of controlling the quality and standardising the services, but on the other hand, it leads to boredom and frustration for the agent who is limited in what they can do to respond to customer requests: *“What we [as agents] can do depends on the script. After all, it turns into a very routinary exercise, and mentally this is very draining”*, explains Juan David²⁹. At the same time, this routinisation and lack of creative freedom in the job can contribute to a lack of identification of the worker with their occupation (Woodcock, 2016).

Further, many of the respondents emphasised the treatment they received from the customer on the other end of the line as tiring. This can include deceptive and xenophobic comments, insults, threats and shouting. *“Sometimes you pick up and they simply start yelling at you, and sometimes they offend a lot and you get comments like ‘Pass me on to someone who actually speaks English’”* remembers Valeria³⁰, *“[...] and you see everyone super stressed, it’s terrible because you finish a call and you don’t really have a break because you have to pick up the next call and you just end up drained.”* In Juan David’s case, it became evident how the interplay of being tied to the script and dealing with disrespectful customers turned into a stressful situation: *“Seriously, I can’t tolerate that people yell at me, and even less so, when it’s not my fault, because the customers were calling to complain about things that I supposedly provide, but in practice, I can’t do anything for them because I’m just following a script.”*³¹ In that regard, Ponce (2017) had already noticed, how the nationality and certain cultural background of the customers in the line could have a significant impact on the work experience in a certain campaign. To this, based on my interviews, I would like to add the perceived differences regarding social class and age that often depend on the campaign they are working for.

²⁸ Interview 6, 29/03/2023

²⁹ Interview 8, 01/04/2023

³⁰ Interview 4, 24/03/2023

³¹ Interview 8, 01/04/2023

For many workers, this stress gets so pressing that they choose to quit. In general, when former employees were asked why they had left the company, not only their alternative plans were brought up, but also frequently a reference to the work experience described above. Valentina explains *“That’s why I stayed only for a short period in TP. Because for me the campaign was very hard. I started feeling very anxious, stressed and just couldn’t do it any longer.”*³² But also, many of the other respondents, when asked about why they left the company noted that the work was ‘terrible’ or that they could no longer cope with stress and pressure. Without a doubt, the last-minute shift changes and the expected willingness to work overtime contribute to a mounting burden on the agent. I will return to the aspect of stress later, and how it is created in the structure of the company.

This effect of the delineated pressure and stress increases the need for breaks and relaxation. In reality, however, all respondents expressed dissatisfaction with the break times, which, according to the contract foresee a 30-minute lunch break and two additional 15-minute breaks. In practice, however, overcrowded lunchrooms, seemingly arbitrary break times and the unpredictable length of calls result in the loss of break time: *“There are calls that are very long, I have had calls that go on for 3-4 hours”,* Valeria explains, *“and you have to stay in the line until you can solve the customer’s problem.”*³³ Also, Alejandro stresses his concern about the break situation recalling that the lunch times are assigned based upon the staff needs in the campaign at a certain time *“So imagine that you start your shift at 7 AM and at 8.30 AM they schedule your lunch - that’s just terrible”.*³⁴ All of those who had moved up the career ladder showed awareness of these practices and apologised to them with the client’s requests, thereby locating responsibility outside their scope of action³⁵.

This is indicative of how acceptance is engineered among the workers in management positions, but for the agents, this contributes to the pointlessness of seeking redress for grievances within the company, as is further [discussed in the next chapter](#).

The outcome: mental health problems

The result is an increasing number of employees suffering from mental health complaints. Several respondents mentioned that they had managed not to take the work too personally, but everyone reported that they knew other people whose mental health had been negatively affected.

³² Interview 7, 30/03/2023

³³ Interview 4, 24/03/2023

³⁴ Interview 6, 29/03/2023

³⁵ Interview 12, 20/04/2023; Interview 15, 28/04/2023; Interview 16, 28/04/2023

In addition to reporting on their own experiences, respondents were bringing up incidents from other call centres in Colombia and beyond in which agents had committed suicide to further highlight the severity and relevance of the issue³⁶. This matters since it conceptualises the work practices and environment as a threat to the health and integrity of the employee directly. *“The dilemma is that with all this pressure you may end up developing a depression, which happened in my case, and which is difficult to cope with because Yes, I could quit, but where do I look for another job? This is the only thing I have experience in, and they won’t accept me elsewhere.”*, Juan David confessed³⁷. Again, this example stresses the importance of considering the country context which explains the success story of the company despite questionable working conditions. Juan David decided to ‘push through’ despite suffering from severe mental health problems as he did not see an alternative for himself on the local job market.

What also belongs to this picture is the difficulty to obtain respective support from the company³⁸. A few respondents said they were unaware of the availability of psychological support at Teleperformance. Two unsuccessfully tried to use the company psychologist to deal with their work-related mental health problems: Juan David, who was mentioned above, was told to take leave to get away from work, yet the psychologist refused his request to provide a sick note or any other supporting document to request days off. In practice, it seems that *“The only support that the company provides is the training and that after a certain time, you can hang up a call and report it to the supervisor”*³⁹, as Santiago explains. However, this lack of concern for workers’ mental health was also linked to the Colombian reality rather than being a unique flaw of Teleperformance: *“In this country, we believe that recurring to a psychologist means you’re insane... but that’s not the case. It’s like going to a doctor, it’s a matter of looking after your health”*⁴⁰ noted Juan David for instance.

This was also evident in comments in the Facebook group “Call Center Community Colombia”, which I discuss further in the section on humour and gossip. There are many posts in which the individual declares that they want to let off steam and recount episodes of their workday. While there are sporadic cases in which peers provide advice on how to act upon suffered grievances, many of them relate to an adaptation of mindset on an everyday level:

³⁶ Interview 4, 24/03/2023; Interview 8, 01/04/2023; Interview 10, 17/04/2023

³⁷ Interview 8, 01/04/2023

³⁸ Interview 6, 29/03/2023; Interview 7, 30/03/2023

³⁹ Interview 3, 24/03/2023

⁴⁰ Interview 8, 01/04/2023

For example, an anonymous participant who declared experiencing a ‘nightmare called working at Teleperformance’ and recounted how it affected their mental health, they received comments such as *‘Neither TP nor any company will change you. You will have to change’*⁴¹. Another girl opened up about dealing with depression while receiving increasing pressure from her supervisor. The most popular comment stated *‘I seriously don’t understand why in this industry everyone is feeling so stressed because of the risk of losing their job, knowing that if you leave one company, on the next day you’ll get two new offers. Like clearly we all take care of our jobs, but I don’t see how this would affect your mental health’*⁴²

Also during my interviews, this became evident in patterns of downplaying the negative experiences of others or of oneself. But also when I asked Leidy about the kind of complaints she received as a supervisor *‘I feel like nowadays it’s very common among the youth... I’m sorry to say that, but they complain very easily. Seriously it’s like a ‘Ay they said Hello to me badly and now I’m depressed’. So that’s the kind of situations you have to know how to deal with because we had to take care of the attrition rate, it couldn’t be more than 5% per month.’*⁴³ This is the same woman who I will quote later on explaining that she desperately wanted to leave the line because she could no longer stand the treatment she received during calls and that it was just *‘the worst’*. Firstly, this incident illustrates how the mental health concerns of the agents are not taken seriously within the company. For those in charge, such as the supervisors, it can be rather part of the protocol, not linked to ensuring the wellbeing of employees, but to fulfilling their own duty to ensure a low turnover rate. Secondly, it also becomes visible how those, who have climbed the career seem to be oblivious to their own past as agents, as they display little empathy with their subordinates. I will return to this aspect in the next chapter to show how this feeds into the fear of being the butt of the joke for being ‘too weak’, further limiting the space for collective resistance.

This is also in line with other respondents who at one point of our conversation admitted that the stress and pressure affected them a lot, while later clarifying that it was burdensome for some, but that it did not affect them too much⁴⁴. It seems then that is part and parcel of what you get for working in the sector and if you cannot or do not accept it, it is because you are *‘too weak’ or ‘too lazy’*⁴⁵— again a notion that closes the circle with the aforementioned issues of individualisation and competition.

⁴¹ Appendix B1

⁴² Appendix B2

⁴³ Interview 13, 20/04/2023

⁴⁴ E.g. Interview 4, 24/03/2023; Interview 7, 29/03/2023

⁴⁵ Appendix Q

“Another open secret is that everyone drinks and takes drugs in call centres – otherwise nobody would be able to put up with it. So you start smoking because of the boredom of answering the calls.”

Felipe, Interview 10, 17/04/2023

Against this background of denied access to professional mental health support, abuse of drugs is frequently seen as a way to cope. While some said that they used drugs themselves, others explicitly said that they wanted to highlight this as a common problem in the call centres, resulting from the need to cope with the daily pressures of the workplace⁴⁶. Although the company was aware of the problem, as they regularly checked the personal lockers, the efforts were perceived as half-hearted and not as a real interest in tackling the reasons for extensive drug use by employees⁴⁷. The allegation here is that the work structure at Teleperformance and other call centres creates an environment that is conducive to drug abuse, putting not only the mental but also the physical health of employees at risk.

5.2.2 Health, safety and control during the pandemic

With regard to health issues, several interviewees also recalled the company's management practices during the early stages of the pandemic. Natalia mentioned how she and other pregnant women had to hide in the company toilets when a health inspector arrived to hide the fact that the company was putting at risk their health by having them show up to work⁴⁸. After the first lockdown was mandated, Valeria's boyfriend was expected to continue working at the site, where no sanitary measures were taken, until outraged parents drew the attention of the public and the authorities to it by calling local radio stations to denounce the situation⁴⁹ (Medina Atuesta, 2020). In both situations, measures were subsequently taken to protect the health and safety of the workers by arranging for them to work from home, although in Natalia's case, this meant foregoing her salary for a month due to the delay in the process. These and similar issues regarding Teleperformance's response to the pandemic were brought into the spotlight when a group of trade unions and civil society filed a formal OECD complaint with the French National Contact Point⁵⁰ (France Point de Contact Nacional, 2022), and the issue was also reported in French newspapers (Aizicovici, 2020; Meslet, 2020).

⁴⁶ Interview 2, 22/03/2023; Interview 8, 01/04/2023

⁴⁷ Interview 4, 24/03/2023; Interview 6, 29/03/2023; Interview 10, 17/04/2023

⁴⁸ Interview 12, 20/04/2023

⁴⁹ Interview 4, 24/03/2023

⁵⁰ This process was officially closed in December 2022 and the French National Contact Point lauded the company's implementation of received recommendations to improve the Health and Safety situation.

5.2.3 Irregularities regarding payments

Also, the underpayment and/or late payment of salaries and settlement when leaving Teleperformance remains a common complaint. Those who were not directly affected reported knowing at least one person who had experienced such irregularities: *“My contract was for a salary of 2.2Mio COP and I didn’t even receive the minimum wage [...] In the second payslip they retained 400K pesos, around 500K in the third.”* says Paula about her experience⁵¹. Usually, it is the supervisor who is responsible for recording the agent's hours and deducting any shortfalls, remembers Leidy one of her tasks and the kind of complaints she received from her agents⁵². While she explains that she is expected to take this task seriously and to be strict about any failures on the part of agents, she also points to flaws in the system - as does Marco, who had worked in operational management and admits that agents would end up working unpaid overtime because of his own mistakes⁵³. Natalia and Felipe⁵⁴ both reported problems in claiming compensation for sick leave, an issue for which Natalia is currently taking Teleperformance to court: *“TP didn't meet their duty in terms of paying me, and they didn't just fail me, they failed a lot of people”*⁵⁵. Similarly, Natalia and Lina⁵⁶ recalled difficulties in getting their settlement within the legally prescribed time. Others said that they were aware of the issue but that they had not checked if they had received the correct amount⁵⁷ – an observation which could be either explained with some people not economically depending too much on the job, or again, by a matter of knowledge, as David described the process of calculating the exact settlement as a complex task⁵⁸.

Besides, Valeria’s statement on the right and similar comments from other respondents stress how for the individual, especially if it is their first job, it is difficult to control whether their salary was infringed. In addition, any basis for comparing and thereby detecting and addressing potential systemic flaws is actively discouraged.

“I recall that when I first entered, they told us ‘Your salary is yours. That means it will be different from his or hers... so don’t ask.’ “

Valeria, Interview 4, 24/03/2023

⁵¹ Interview 9, 10/04/2023

⁵² Interview 13, 20/04/2023

⁵³ Interview 16, 28/04/2023

⁵⁴ Interview 10, 17/04/2023

⁵⁵ Interview 12, 20/04/2023

⁵⁶ Interview 5, 27/03/2023

⁵⁷ Interview 7, 30/03/2023

⁵⁸ Interview 19, 04/05/2023

Finally, the aspect of underpayment was particularly interesting to me because it puts into perspective the comparatively high salary that initially attracts applicants. This impression was reinforced when Leidy, Camilo and Marco told me about their long working days as they climbed the career ladder, not necessarily being paid the premiums for overtime or working on public holidays⁵⁹. While my intuition was that the hours were not as well paid as advertised, none of them complained about it, describing it rather as part of the deal and the price to be paid to keep the prospect of moving up the ladder: *“It’s the famous ‘contract of trust’. So you have to be available 24/7, at any time for any meeting, anything. You don’t get night premiums, Sunday premiums or holidays. And you know the law and you know that because you don’t get an integrated salary, they have to pay you the supplements. But because that’s the way the sector works, you get used to it [...], like seriously, you work hard to climb the ladder, because the salary is really good, but you know that you’ll turn into a slave.”*⁶⁰ explained Marco, thereby indicating how passive acceptance of certain corporate practices can be simply bought by the company.

5.2.4 Surveillance at the workplace

Systems of surveillance and control constitute another decisive component of the day-to-day work experience. Again, both have been documented in detail in studies on other call centres, indicating it is a common pattern of the organisational structure (e.g. Alves, 2021; Hastings, 2011; Ponce, 2017; Woodcock, 2016). Camilo had been part of Mission Control for some time and described his role as follows *“What do you do? Well, you monitor in real time, what are the agents doing? For example, you see if they are taking too long, then you start to put pressure on them. Because at that time I was shouting to get the attention of a certain officer because it was a big room and I couldn’t leave my position. So then you start to harass - well, let’s say I didn’t see it that way, but that’s what we had to do to contact the agent, you know?”*⁶¹. Here, Camilo illustrates how he himself had contributed to a work environment by subjecting the agents to continuous surveillance and pressure to meet specific targets. Interestingly, while he acknowledges that his behaviour may be interpreted as harassment, he apologises for it by framing it as a necessary evil in the context of his role. Arguably, this ‘public ritual’ of pressure and surveillance does not only generate punctual obedience but also serves as a deterrence mechanism for those around, thereby bearing a wider disciplinary effect.

⁵⁹ Interview 13, 20/04/2023; Interview 15, 28/04/2023; Interview 16, 28/04/2023

⁶⁰ Interview 16, 28/04/2023

⁶¹ Interview 15, 28/04/2023

In addition, there is also the, for the agent invisible, surveillance while performing their tasks. This strategy is directly embedded in work routines, since agents know that supervisors and even clients can listen to any of their calls, even in real-time, without the agent noticing. This serves to check, that the agents actually follow the script that I mentioned previously and the overall performance or to investigate customer complaints.

It is therefore a system in which discipline and service provision are guaranteed by making the worker feel the gaze of their superior, while at the same time reminding them of the consequences of non-compliance, not only for themselves but also for their family. The tangibility of this ultimate punishment is gradually built up through write-ups or memoranda to document any minor misdemeanour and potentially justify the termination of a contract, as Lina, Valeria and Leidy mentioned⁶².

Picking up again on how the pandemic was experienced by the workers, many pointed out that working from home rather than on-site had become a more common option ever since. This means that some of the complaints about overcrowded lunchrooms no longer seem to apply. At the same time, the overall work structure and the exercised control have been maintained and adapted to the context. *“During the pandemic, they had the nerve to install cameras in the houses, and I’m not talking about a webcam in your face, but a CCTV to ensure that the employee is always seated”*, explains David⁶³. It hence becomes clear how the company has found ways to maintain control over its workers, and arguably even extend it to the private sphere. Moreover given that the frequent relocation of workers has been identified as a company strategy to prevent collective mobilisation (Wolanski, 2019), it is not a great leap to suggest a similar effect for an online workforce, as there is little contact with colleagues to build a trusting basis for sharing experiences, as some of the respondents who had worked from home confirmed that they were mainly in touch with their supervisors⁶⁴. Given the increasing shift of call centre operations to the home office since the pandemic, exploring the potential changes in structures and experiences of the workers would be a useful area for further study and also a change, that, theoretically ought to be reflected in the company’s vigilance plan.

5.2.5 Punishment for voicing critique

A final point of contention I would like to stress are the company's responses of harassment and threats to voicing critique. Among my respondents, Felipe recounted how he had been indirectly threatened for calling out nuisances *“[...] Then she told me ‘Look, you know you’re not getting paid for learning about law. Your job is simply to take care of customer requests’*⁶⁵.

⁶² Interview 4, 24/03/2023; Interview 5, 27/03/2023; Interview 13, 20/04/2023

⁶³ Interview 19, 04/05/2023

⁶⁴ Interview 4, 24/03/2023; Interview 3, 24/03/2023; Interview 6, 29/03/2023

⁶⁵ Interview 10, 17/04/2023

Besides, Paula had told me that she entered Teleperformance on the one hand to improve her English, but also because she felt a vocation for workers' rights and had heard about the deficient working conditions there. Therefore, she was keen on raising her voice whenever she noticed an injustice such as discrimination against pregnant women.

In return, however, she said that she turned into a target for the company: *"It was a horrible harassment at work - so my treatment was very different. 'No, you are not going to nesting'⁶⁶. No, your training is different, no this, no that... ,' So even my colleagues said, 'but why is Paula being treated differently, we're noticing it!' So what's their point? They break you so much to make you resign"⁶⁷.*

Similarly, Marco mentioned how, as a line manager at Teleperformance, he had once received a call from a superior asking only whether a certain group of people worked under him, to be then given the task of immediately terminating their contracts. He explained that he had asked for the motive *"but I never received one. But you know, there is a lot of gossip in the call centre, and this is how we eventually found out that they had been working on unionisation."*⁶⁸. A side effect, which I will come back to in more detail in [Chapter 7](#), is thus the deterrent effect and the spread of fear of losing one's job if one complains about poor working conditions, thereby increasing the price of collective action and other forms of resistance.

"It depends a lot on what campaign you get. Uber, i.e. Rebel is heavy, they are very enslaving. But there are also some campaigns where they are very relaxed. I have a friend in a Portuguese campaign, she goes to the site, she manages social media content, and she tells me that it's very relaxed, they don't bother her for anything, they pay her very well. So I think it depends a lot on that"

Valeria, interview 4, 24/03/2023

5.3 Locating power: the structure and culture within the call centre

In this section, I look at the structure within Teleperformance in order to find the source of the problems faced by the agents at the end of the telephone line in their daily work. The first aspect revolves more around the characteristics of the BPO sector and, by highlighting the role and power of the client company, I point out a first limitation of the current due diligence regime. The second aspect, on the other hand, focuses more on organisational psychology, and I argue that by exercising control and cultivating an individualising work culture, the company can hamper any potential efforts at structural change.

⁶⁶ A transitional stage between the formal training and entering the operation as an agent

⁶⁷ Interview 9, 10/04/2023

⁶⁸ Interview 15, 28/04/2023

5.3.1 The role of the client

The usual pattern is for a company to entrust Teleperformance with its customer service. The list of clients is long and includes well-known multinationals such as Uber, Spotify, Ebay and TikTok. But what I found during my fieldwork was that two call centre agents, both working for Teleperformance in Bogotá, could have very different work experiences. Alejandro summed it up as *“The point is that the work as such is not bad. But depending on the campaign it can turn into hell”*⁶⁹.

This is also insofar important in that it makes it harder to identify a common target of action as a common denominator for a collective cause of resistance.

Respectively, two distinctions need to be made. The first, as mentioned above, is due to the nature of the customers with whom the agent is expected to interact, depending on the campaign. The second relates to the nature of the client's requirements and the resulting work structures. For agents, this translates into highly ambitious metrics, spontaneous shift changes, break times or overtime. Typically the call centres negotiate contracts with their clients individually. As a result, the terms of payment vary, and in one campaign the number of calls handled may be the key metric, while in another it is the number of agents available to handle the line, known as the headcount⁷⁰.

While the name of the operation, i.e. the client, is often not revealed until the agent signs the contract, there are several campaigns that have a certain reputation in the call centre world in terms of the working environment to be expected: Alejandro recalls: *“When I returned to TP, at the beginning I didn't have any information about the campaign [...but when it was disclosed that] The campaign was bilingual and not too demanding in terms of English skills and those who had worked in TP previously, we already knew that it was a really bad campaign – because the call load is very high, because they adjust your break times the way they like, because they are reluctant to any request from the agents... so this why nobody wants to work there.”*⁷¹ Similarly, in the Facebook group mentioned above, it is common to find posts asking for opinions on specific campaigns before accepting an offer⁷².

On the other hand, the power of the client was particularly evident in my conversation with Natalia. I met her by chance and she told me that she had worked for Teleperformance twice and was currently suing the multinational together with the client of the campaign: Due to the hospitalisation of her one-year-old child, she submitted sick notes for two to three weeks, but the company refused to pay, saying that they did not pay for the sick leave of their employees' children.

⁶⁹ Interview 6, 29/03/2023

⁷⁰ Interview 15, 28/04/2023

⁷¹ Interview 6, 29/03/2023

⁷² See Appendices B3-B6 for examples

She ended her contract with the company and shortly afterwards the client contacted her directly '[...]They told me 'We know that you had the emergency with your son, and we paid for this sick leave'. So the client had paid TP but they didn't pay me. [...] And it was also them who requested the lawsuit against TP because according to them they had accrued around 7 million COP.'⁷³ While dissatisfaction with payment compliance and payroll, in general, is a common complaint, this is the only case in which I found the deliberate accusation of embezzling part of the money.

More relevant to the role of the client, however, is the fact that in Natalia's story, the client chose to side with the employee and support her in seeking justice - probably not least because she has been the victim of fraud - taking an active role. I return to the implications of this in the context of the Loi de Vigilance in [Chapter 7](#).

5.3.2 Work culture and management – pressure for efficiency

When investigating entities such as the company Teleperformance in this case, there is always the trap of alluding guilt to the entity itself. *"Teleperformance is a monster"* Camilo noticed during our conversation⁷⁴. To blame the company itself, however, is to fail to unpack what about the company causes the grievances; it is to close one's eyes to the fact that the company does not have agency, but that ultimately it is actions carried out by people in different positions within the company, or to put it in Paula's words: *"There is the company and there is the worker. But the one who really screws things up is the worker who offers himself to the company to exploit the other worker"*⁷⁵. This is easily overlooked, especially when staff turnover is high, and the individual appears to be easily replaceable within the company. I suggest that another aspect that allows for the grievances expressed within Teleperformance can be derived from the work culture that has been created and is constantly reproduced in everyday practices. This is an issue that has been theorised more in organisational theory, as part of business and management studies. It is beyond the scope of this thesis to discuss the theory in more depth, so I will continue by building on the general observation that by looking at organisational structure - and culture - we can learn how organisations work and how they affect and are affected by their environment, including their employees (Jones & Jones, 2013).

A funnel of pressure: the top focused on outcomes, the bottom has to deliver, no matter how

Camilo summarised it as follows: *"Let's say it's a funnel effect, unfortunately it is: So, in the structure of Teleperformance, in the widest part of the funnel there's people like management and further up, those who are in charge of the administration. And from there downwards starts the pressure."*

⁷³ Interview 12, 20/04/2023

⁷⁴ Interview 15, 28/04/2023

⁷⁵ Interview 9, 10/04/2023

So in TP's structure that means from the operation manager to the account manager, from the account manager to the ACCM, from the ACCM to the supervisors and from the supervisors to the agent, who, at the end of the day is the one who feels all of that pressure and who's not allowed to go to the bathroom, who can't take their break, you have to stay longer. (...) After all, the agent is the one who absorbs all the pressure, since for all the management positions the scheme is a 'you have to give me what I request – how you achieve it? I don't care!'"⁷⁶ Accordingly, in his funnel- metaphor the functioning of the hierarchical structure of Teleperformance Colombia becomes visible.

At the top, we find upper management, which is blind to procedures but focused on delivering the outcome requested by the client. This pressure then trickles down through various levels until it reaches the agents. While for those in between pressure is also a constant companion as they have to meet their tasks, according to Camilo's description, it is the agents who bear the brunt of the pressure and are subject to different constraints negatively affecting their already demanding and monotonous work day.

Zooming into the workings of this funnel of pressure, I argue that it is best understood as a stick-and-carrot approach aimed at increasing workers' commitment to the organisation and thereby improving their productivity. It becomes evident, that its functioning is mutually dependent as the 'stick', the measures of control, pressure, threats and punishments are only effective because they mobilise the aspects of the 'carrot' which allow for breaking with the routinised job experience or directly play with the fear of job. Of course, for understanding its efficacy, the abovementioned aspects of surveillance must be recalled.

"[We were asked to provide a certain amount of agents] and to achieve that, we sometimes asked the agents to work overtime, to change shifts or we just changed the shifts. Or we asked them to change their breaks or their lunch time, all to meet our target."

Camilo, Interview 15, 28/04/2023

The carrot: creating a generous company image, making small gifts and ensuring a comfort zone

Again, the image that Teleperformance sells is that of a company with all the extras on offer, from financial bonuses to language courses and other TP Academy offers that promote professional and personal growth. "And HR almost always tries to make the work pleasant, like giving away sweets, chips, chocolate, in the lunchroom there is a play, those ping pong games... that's a club. And they do it precisely because very young people go there, and they know that they need something to motivate them."⁷⁷ recalls Lina.

⁷⁶ Interview 15, 28/04/2023

⁷⁷ Interview 5, 27/03/2023

Similarly, without having asked about it, also other respondents did indeed positively stress the small recognitions and details distributed by the company⁷⁸.

On a more analytical note, David elaborated *“Again, let’s return to George Orwell’s 1984 (Orwell, 1949), if you provide a person with the minimum to live but you don’t take away their dignity, their humanity, but you’re simply providing the minimum, well then, this person will not complain because they’re still in their comfort zone. So this is why they give Winston and all the others their chocolates, their servings. [...] So of course, the call centre people don’t get together to protest. Most of them are rich kids, kids of mummy and daddy... they won’t do that”*⁷⁹.

By drawing a comparison to the dystopian novel, David suggests an explanation for why workers at Teleperformance are hesitant to take action to improve their situation. According to him, they refrain from complaining as long as their comfort zone remains untouched. The company creates this by, on the one hand offering small rewards, but also by for instance not infringing the wage to an extent that it would get them into financial trouble, if we call Santiago’s example from the start of the chapter.

Thus, according to Hirschman's model, this shows how loyalty is promoted to lower the threshold for leaving the company, creating a situation in which loyalty can be interpreted as *‘conformity with the domination and its passive acceptance’* (Alves, 2021, p. 118). Indeed, this acceptance was palpable in the resignation, in which several interviewees pointed to shortcomings in their work, but did not see the point in opting for the *‘voice’* option, since the probability of success seemed minimal for several reasons, which I will discuss in more detail in the [next chapter](#).

The stick: Threatening to withhold the ‘carrot’ or get sacked

All of these extras are aspects that agents are constantly reminded of, both through awards such as being part of a *‘best place to work’* list, but also when they are directly asked by their managers for favours such as changing their schedules or putting in extra hours: *“They threaten you in that sense that they will take away certain privileges, that they will scrap your offline time, that they won’t take you to the team meetings, no pizza parties and stuff like that – It’s stupid things, but it is things you can manipulate the emotions of the employee with”. [...] They have the upper hand, they are sure what to do because they are in charge of your job. They are in charge of your food and your house so they manipulate you in that way. And it’s not just the call centres, it’s all the companies here, at least in Colombia, they play with that kind of feeling that you owe us, that you are living in a place that you are eating, so you have to obey them.”*⁸⁰ In David’s statement, it becomes evident that the company has two different *‘levels’* of applying the *‘stick’*.

⁷⁸ Interview 7, 30/03/2023; Interview 10, 17/04/2023

⁷⁹ Interview 19, 04/05/2023

⁸⁰ Interview 19, 04/05/2023

The first one is a threat to take away all those aspects of the job that make the everyday experience more bearable. The second level, in turn, aims at stressing the workers' and their family's dependence on the job. Both examples highlight tactics of emotional manipulation in which the goal is to make the worker feel in debt and thereby achieve obedience and economic productivity. Other respondents shared similar experiences in which this kind of mental pressure through direct or indirect threats of withholding privileges or sacking turned into a convincing argument to tolerate the prevailing conditions⁸¹.

Besides ensuring the obedience of the workers and thereby the functioning of the business, I argue that the described funnel of pressure also has an individualising effect. Individualisation, in turn, is key to hindering collective action, an aspect to which I return in [Chapter 7](#). One way in which individualisation is promoted is through the above-mentioned efforts directly aimed at preventing any form of collective action through intimidation practices. Besides, this is achieved by promoting competition among employees. On the one hand, this is done through rewards for outstanding performance, but also by perpetuating the knowledge that the individual is easily replaceable, which leads to higher commitment and that fulfilling one's own tasks is of paramount importance: *"And once the client gets involved, well they don't ask for favours, they expect you to deliver what they demand and if you can't you have to leave. So you constantly live with that fear that they will fire you."*⁸², recalls Camilo. Thus, as soon as the perceived pressure and threat for yourself, and therefore for your family, is high enough, you become blind to what you do to others.

On the other hand, informal competition in the form of doing favours for one's superiors is a common pattern. Marco describes *"The management style in this industry is a lot like "you're my friend, so I'll ask you for stuff or favours.[...] For example, my boss was in charge of bonuses, so she would give bonuses to us who were her friends, telling us "I'm giving you this amount as a bonus, but you have to pay me this amount because it's for future activities that I'm going to do for the team leaders... and it wasn't peanuts. Like let's say in one month she would give me a 2 million pesos bonus and I had to give her 1 million pesos. (...) And at that moment I didn't even see it. But when I left the company, I realised that she hadn't even done all these activities – oh, but she had a beautiful apartment".*⁸³ Of course, not all favours are of monetary nature, however, most of the interviewees agreed that doing small favours is an indispensable strategy for climbing the career ladder (*'estar dentro de la rosca'*⁸⁴)⁸⁵.

⁸¹ Interview 16, 28/04/2023; Interview 12, 20/04/2023

⁸² Interview 15, 28/04/2023

⁸³ Interview 16, 28/04/2023

⁸⁴ Be part of an exclusive group that receives preferential treatment

⁸⁵ Interview 19, 04/05/2023; Interview 16, 28/04/2023; Interview 15, 28/04/2023; Interview 12, 20/04/2023; Interview 8, 01/04/2023, Interview 4, 24/03/2023; Interview 13, 20/04/2023

What comes to the fore is a corporate culture that is characterised by favouritism and exploitation to obtain personal gains. On the one hand, the preoccupation with personal gain again illustrates an individualised workforce. On the other hand, several respondents recounted that those climbing the career ladder had done so because of their personal relationships rather than because of their professional qualifications.

5.4 The ill of a sector?

An important remark that needs to be made at this point, however, is the fact that the articulated grievances are not necessarily a unique characteristic of Teleperformance. The circumstance that nearly all my respondents had worked in multiple call centres, as well as the insights from the Facebook group allow for a comparative aspect and the

observation that deficiencies in working conditions are a frequent ill in the sector. In terms of pressure experienced regarding the task of customer service, this is little surprising, since essentially the work is the

“Really, this is just the way the industry is, you know? The only thing that differs is the name of the company and the clients, the tools – but the sector remains the same”

Juan David, Interview 8, 01/04/2023

same, or as Felipe put it *“In general it’s always the same routine: You have to deal with very hysteric people because something is going wrong, and you can also not really help them. And this is where the stress and tedium start”*.⁸⁶ Further, as indicated above, many of the aspects that cause discontent among the agents have also been reported by other scholars focusing on labour relations in call centres around the world (Hastings, 2011; Micheli Thiri6n, 2007; Ponce, 2017; Taylor & Bain, 2003; Woodcock, 2016). In the context of the mobilisation of the *Loi de Vigilance* this is relevant as it allows us to critically reflect on the potential reach of its ‘successful’ application, a question I will return to in greater depth in [Chapter 7](#).

But maybe TP is indeed worse than others... because of its size?

In contrast, however, my findings also suggested, that on a micro-scale the work culture and managerial approach to the abovementioned issue can make a significant difference for the workers. In fact, Lina, Camilo and David are currently all working in different call centres in Colombia where they enjoy their experience and attest to a much more attentive and correct work culture⁸⁷. Company size is here one suggested explanation. Lina, who is currently working as a supervisor in a different call centre suggests *“Maybe it’s the size of the company... like in Coca Cola it would also not be the same as in your neighbourhood bakery... for Coca Cola, you’re employee no. 1982.*

⁸⁶ Interview 10, 17/04/2023

⁸⁷ Interview 5, 27/03/2023; Interview 15, 28/04/2023; Interview 16, 28/04/2023

*In the bakery, you're one of the four employees. [...] [In my current company] my manager knows my name and the name of my people and he is attentive. So I think the fact that they try to make it more human and that you're not a number but Lina makes a huge difference. Because they notice you, you can grow, they teach you the things you need to ascend because they want you to want to ascend because this is how the business grows. They make business and we grow while doing our thing... I believe this is what makes the difference.*⁸⁸

Others share her perception, and also the consultant to the Ministry of Labour confirmed *"The reality is complex. Teleperformance is a big company by Colombian standards – it's the largest private employer in the country. And managing over forty thousand workers is not easy, and as a result, problems can arise."*⁸⁹ While the former, to a certain degree then, supports the approach of the French and other contemporary due diligence legislations which expect an increased likelihood of human rights abuses with a larger company size, the latter comment can be interpreted in a more protective way, apologising for incidents within Teleperformance and advocating for understanding. Again, this is noteworthy given that Teleperformance is an important job provider in the Colombian economy, an aspect to which I will return in the two following chapters.

5.5 Conclusion

In this chapter, I have provided the background to the next chapter: who is how affected and why do they resist or not. In the next chapter, I discuss the forms of resistance against the here portrayed work experience. Importantly, I found little traces of collective efforts on the ground, most of the resisting strategies were rather directed at improving an individual's situation. To better understand this phenomenon, I have provided some analytical background in this chapter. I located the first explanatory factor in the profiles of the call centre agent. *'The rich independent kids don't protest'*⁹⁰ said David and I have shown how indeed given a lack of economic dependence, a lack of emotional connection and a lack of awareness of workers' rights, collective organisation becomes increasingly difficult and unlikely. I have illustrated this by sketching the profiles of two groups of people who are frequently found among the call centre agents. First, in general terms it is mainly young people who work in the call centre industry, as they are specifically targeted by company advertisement, ostensibly addressing the high figures of youth unemployment. At the same time, it is therefore a workforce that has little work experience and knowledge about their rights as workers, therefore making it harder to identify and address corporate wrongdoings. Further, on the one hand there are those workers from a higher socioeconomic background, who have no real interest in the call centre and picture themselves soon as professionals in their career.

⁸⁸ Interview 5, 27/03/2023

⁸⁹ Interview 17, 02/05/2023

⁹⁰ Interview 19, 04/05/2023

On the other hand there are those, who do not see an alternative to their job at the call centre and are economically dependent on keeping their job. In combination, it then becomes clearer why perceived deficiencies on the surface seem to be left untouched. In addition, individualisation is fostered by encouraging competition, but also through the individualised work routines in which little space for interaction with co-workers is left given the high workload, and the option of spatial separation through working from home. Further, a feeling of being dependent on the job is nurtured by emotional blackmailing or intimidation practices that spread fear to speak up and ultimately engineers obedience and passive acceptance of the corporate culture.

6. Strategies of Everyday Resistance

6.1 Introduction

Having outlined the structure and the everyday experiences and grievances reported by the former employees interviewed, this section is dedicated to exploring the responses to these experiences in the broadest sense. The aim of this chapter is therefore to acknowledge the agency of call centre agents and to shed light on the strategies they develop to resist the problems they face at work. Furthermore, reflecting on the choices and motivations of individuals allows for a better understanding of their priorities by assessing their subjective opportunity structures. This, in turn, will later serve as a basis for reflecting on the lack of collectively organised resistance at Teleperformance Colombia and the suggested discrepancy between the imaginary addressed by the *Loi de Vigilance* and the realities on the ground. This chapter seeks to broaden our understanding of resistance and to acknowledge the different forms of everyday practices that the former workers engaged in to channel their dissatisfaction with their experience at Teleperformance Colombia.

I will present practices of covert refusal to work, the use of humour and gossip, call centre hopping, seeking help within the company, climbing the career ladder and the role of legality. Empirically speaking, those were the actions I found the former Teleperformance to engage in to navigate through their everyday work experiences. I start by presenting those, that have the greatest overlap with those ‘weapons of the weak’ Scott suggested originally. Hirschman’s Voice, Exit, Loyalty framework then allows me to make sense of two other practices that respondents reported on but that go beyond the scope of everyday strategies of resistance. Lastly, I turn to the role of legality that I found on the ground. On the one hand, because it was used as a form of resistance against the company, but also, looking into the local engagement with legal channels can provide insights into the potential meaning of the French *Loi* in the context, by reflecting the expectations workers project to law in more general terms. In the analysis of the applied strategies, once again, the individualised nature of the employees, not only in their work experiences but also in their way of resisting becomes evident. This is a decisive finding on which I build in [Chapter 7](#).

6.2 Covert refusal to work

Workers use several distinct strategies for de facto reducing working hours in order to relieve boredom and stress, which were mentioned by multiple respondents on a side note. These included exceeding break times⁹¹, disconnecting phone lines, pretending to have a faulty internet connection when working from home⁹², or simply threatening not to return to work if demands were not met.

⁹¹ Interview 10, 17/04/2023

⁹² Interview 4, 24/03/2023

All these practices may bring temporary relief to the individual agent and have been documented in other call centre studies (Ponce, 2017; Woodcock, 2016).

For Alejandro, this meant when he experienced a mental breakdown and his request for a reduction of his working hours was rejected, he withdrew himself from the system that was making him sick – even though, ultimately, he overestimated his bargaining power, and the company did not follow his request⁹³. Felipe was annoyed by the overcrowded lunchrooms and the rushed lunch break and therefore decided to take his time⁹⁴. For Camilo it meant not accepting the rules that expected him to wait until his break to go to the bathroom⁹⁵. Disconnecting his phone thereby posed a direct confrontation with the company's system of strict rules and control ensuring constant order. Similarly, the other mentioned strategies with which work was refused disrupted the system, although on a small scale, for some time, while they allowed the respective worker to take care of their needs. Seeing how these practices directly affect capitalist production, it is easy to imagine how the accumulative effect can indeed pose a palpable confrontation for the company (Scott, 1985). This was for instance also thought further by Paula who is dreaming of having a larger number of call centre agents all disconnect at once to get the company's attention⁹⁶. It ultimately then is a critique of a company system which does not acknowledge or take care of its worker's needs.

In most cases, however, supervisors were already aware of the practices and, if caught, agents were quickly receiving warnings via memorandums or dismissed⁹⁷. Companies, therefore, seemed prepared to fight back and demonstrate their stronger position. This ultimately acts as a deterrent to other agents but can also increase the level of bureaucratisation and surveillance in the workplace, making such acts of resistance increasingly difficult. Those strategies hence started off as 'covert' weapons of the weak, in which the worker implements small-scale individual coping strategies that go unnoticed by the employer or supervisor and derive their significance from this (Scott, 1985). Through the previously described work culture which includes multiple levels of control and surveillance, ensured through the 'funnel of pressure', various strategies have been detected and responded to through disciplinary measures like warnings or sackings. While this can render certain practices very risky to perform and can therefore have a discouraging effect on workers, it can also stimulate the creative reengineering of new strategies, that adapt to the new environment and serve the workers' needs.

⁹³ Interview 6, 29/03/2023

⁹⁴ Interview 10, 17/04/2023

⁹⁵ Interview 15, 28/04/2023

⁹⁶ Interview 9, 10/04/2023

⁹⁷ Ibid, Interview 10, 17/04/2023

6.3 Humour and gossip

The dominant way in which the use of humour as a form of resistance caught my eye was when I browsed through the Facebook groups for call centre workers⁹⁸. Apart from recruitment posts, there are various posts about negative experiences at Teleperformance and other call centres. Nevertheless, one aspect that can be observed throughout the group interactions is a pattern of self-irony and humour, regardless of whether working at a particular call centre is recommended, a denunciation is made, or someone asks about experiences in a particular position.

Scott (1985) also recognises gossip or humour as a weapon of the weak, an aspect that has been echoed by other scholars (Hart, 2007; Hastings, 2011; Ponce, 2017). The traditional use of humour as '*weapons of the weak*' would be to make fun of your superior which it can also help to strengthen a group feeling (Hart, 2007). While I did not find this in the case of Teleperformance, this does not imply its absence. Rather, arguably those are practices that would be detected more easily through an extended participant observation in a call centre, which was not feasible as I explained in [Chapter 3](#).

Rather, individuals would make fun of their work routine in general to let off steam, a finding also suggested by other researchers who have studied call centres (e.g. Ponce, 2017). Thereby, aspects, that are a source of discontent for the agents as described in [Chapter 5](#) are popular topics. There are several posts in which individuals choose to sarcastically comment on the work structure, for instance through memes as in the examples below:

⁹⁸ I focused on the public Facebook group "[Call Center Community Colombia](#)", the other group "Parche Call Center", which I found initially has not been active for some years now, therefore I did not consider it further



Figure 3: 'We have to find a way to motivate our agents. Any ideas?' 'Pizza party' 'Fun activities' 'Let's stop using impossible metrics so they can actually get their bonus'⁹⁹

By posting in the Facebook group, the agents choose an environment in which they can be understood as is visible in the popularity of such posts in terms of reactions. This way, a sense of not feeling alone and not individualised suffering can be created.

At the same time, however, a taste of resignation remains: what is going on in Teleperformance and in other call centres is common knowledge, everyone in the industry knows that problems with payments and abuses are common practices, but at the same time it is accepted given the perceived lack of alternatives. Against this background, which makes a direct withdrawal from the environment of exploitation unlikely, humorously treating experienced grievances can be a means of coping and can also reduce the effectiveness of intimidation practices from superiors and can positively impact the development of avoiding strategies, since fear is diminished (Scott, 1985) – “you just try to cover all this misery [...] you find ways to cope with what happens” was how Juan David described it¹⁰⁰.



Figure 2: You get a job; It's in a call centre; After two weeks you understand the truth of the customer calls; You discover the secrets of staff; You're tired of the exploitation, you develop symptoms of stress, nausea and dehydration; Finally you become one of the best workers but you want to leave

⁹⁹ Retrieved from <https://www.facebook.com/photo/?fbid=10159494304872011&set=g.2793821914177592> [Last accessed 25/08/2023]

Retrieved from <https://www.facebook.com/photo/?fbid=594989096119091&set=g.2793821914177592> [Last accessed 25/08/2023]

¹⁰⁰ Interview 8, 01/04/2023

On the other hand, humour can backfire in a way that abuses by the company are no longer taken seriously but ridiculed. After all, this use of humour could then also be considered aligned with the self-image as a relaxed, cheerful and young workplace, Teleperformance propagates.

Ultimately this may make it harder for some people to speak up, for example, this is visible in the case of an anonymous post which started with the disclaimer '*I have a question that is very sensitive and has mental health issues. If you have any inappropriate comments, please, with all the respect in the world I ask you to omit them or any kind of mockery about it.*'¹⁰¹. This also links back to the kind of responses other posts received as I mentioned in [Chapter 5](#).

This contrast then highlights the ambiguous nature of jokes, which, as Hart (2007) suggests, can also backfire, insulting and excluding individuals, but also '*humour can even reduce discontent among the oppressed, which can inhibit mobilisation into action*' (2007, p. 7). I suggest that this, combined with the lack of awareness of one's rights mentioned above, can lead to a contentious situation in which the hardships endured are downplayed and thereby the efforts of those who actively seek redress are de facto delegitimised.

6.4 Exit: Call Centre hopping: "*I can quit today and tomorrow I have a job in another call centre*"¹⁰²

In 2022 more than 600 BPO companies were operating in Colombia, indicating a relative abundance of call centres (La República 2023). Given these figures, the pattern that I found during my fieldwork was little surprising: All but one of the respondents had not only worked at Teleperformance but had passed through at least another call centre. While in a few cases, the change to another call centre was externally induced as the agent had been sacked, the more common pattern seems to be a voluntary decision to engage in *call centre hopping*. David decided to leave TP for the first time in protest when his girlfriend was sacked by the company because her sick leave had not been recognised. The second time he left because he had been paid about half of his promised salary for three months in a row. Neither time was he too worried about not finding another job in the industry again he said¹⁰³. Alejandro, after completing the English course with Teleperformance did not like the campaign he was offered because of its bad reputation, so he applied to other call centres and left Teleperformance¹⁰⁴.

¹⁰¹ Appendix B7

¹⁰² Interview 15, 28/04/2023

¹⁰³ Interview 19, 04/05/2023

¹⁰⁴ Interview 6, 29/03/2023

Felipe and Carolina seemed to be the ones who had been through most call centres, sharing how they kept resigning because they were fed up with the work, the treatment they received from superiors or because of family emergencies¹⁰⁵. It becomes evident then, that there are several reasons, why respondents engage in call centre hopping, or rather why they opt for leaving one call centre.

Ultimately though, most of the time, those reasons can be traced back to aspects of the work structure or company management, thus exiting is resistance in the sense of no longer tolerating those matters of discontent.

With this in mind, and recalling that most respondents did not plan to stay in the industry it is remarkable then, that by practising call centre hopping the workers de facto prolong their stay in the industry. This matters in particular if we recall the previous chapter in which I discussed how the problems presented seem to be a common feature in the industry, rather than unique to Teleperformance. On the ground, this means that there is little illusion of finding remarkably different or better working conditions at the new workplace. Even though certain call centres and certain clients have a bad reputation in the world of BPO, the agents seem to not be too selective in their choice when practising call centre hopping but rather take the

first offer that they get within the sector¹⁰⁶. Among my respondents, only Felipe was a noteworthy exception here. He explained *“To be honest, after some time I realised that I’m best off if I just look for a place where for less invested time they pay me the most. Because clearly, I wouldn’t be more than a number for the company so I applied to those that best suited this interest.”* His case shows his resignation of not being able to find a job outside the sector or to find better treatment in the sector, yet he maintains agency by being able to select the ‘less evil’.

“I’d go to another one. I always changed to another call. Because, once you enter that world having a profession or without having one, you start to grow in that world, and they absorb you very quickly. Because it offers you things your profession doesn’t. [...] Of course you study because your passionate about something, but you don’t eat off your passion.”

Camilo, Interview 16, 28/04/2023

Similarly, Julián and Carolina had in the past signed contracts at call centres where they never intended to stay for longer than the paid training period, hence they never started responding to calls as agents¹⁰⁷.

At the same time, however, it needs to be recalled that I spoke with former employees only, which entails them reporting in retrospect about their expectations at a certain point. Hence, individuals may indeed preserve certain hope about landing a better job in the future when deciding to exit a call centre.

¹⁰⁵ Interview 10, 17/04/2023; Interview 11, 19/04/2023

¹⁰⁶ Interview 7, 20/03/2023; Interview 8, 01/04/2023; Interview 11, 19/04/2023

¹⁰⁷ Interview 4, 24/03/2023; Interview 11, 19/04/2023; also Appendix Z3

This suggestion is further supported by the fact, that many also know other people who have had better experiences in a different call centre or campaign, as well as the number of people who, once they receive a work offer ask about experiences in a particular campaign or ask for general recommendations for call centres or campaigns in the previously mentioned Facebook group¹⁰⁸.

So, if a positive outcome from ‘hopping’ seems to be more of a gamble, how can we understand its popularity? First, we need to return to the context of the wider job market they face: Even if a worker decides to leave a call centre because of a negative experience, the general comparative appeal of a job in the sector does not vanish. In that regard, Juan David explained *“The point is that it is really the only good paid job for a person who speaks foreign languages and that does not require work experience. So really the requirements to enter are minimal for people who are professionals, i.e. who have degrees like architects, doctors, system engineers etc., they have to work directly in call centres because they know that they will earn a good income there. [...] It is the only place where they know they can earn more than in their own careers.”* Both for him and for Camilo (Quote above) there does not really seem to be an alternative to the work in the call centre, especially in financial terms as a recent graduate, although they are aware of the trade-offs involved. This is problematic, as suggests, that these companies can easily get away with certain practices, as long as the pay is considered adequate. This will become also evident in the section on climbing the career ladder.

On the other hand, more in line with Scott’s suggested effects of everyday resistance, call centre hopping allows the exercising individual to assume agency over their destiny by withdrawing themselves (temporarily) from the environment that is seen as exploitative or simply not matching their expectations. *“I am a person who is not used to not working and I consider myself to be somewhat resilient [...] but I reached a limit that I was not going to work anymore, I was not going to take another call on this campaign. So I was unemployed for a while, I was able to focus on other issues, but I think it was a very positive thing for me, to be honest, to get out of it.”* Alejandro explained. Rather than feeling the burden of not having a job, for Alejandro, just as for others, leaving the call centre was *“the right thing to do”* at that moment, as it allowed him to address his own needs and get a temporary relief of the physical and psychological stress endured at the workplace. He would a few months later enter a campaign at a different call centre. It thereby offers relief from the draining workplace routines, as long as the individual’s dependence on the continued income is not too pressing. Other examples were Valeria and Lina, who reported needing some time off from work which their employer did not want to grant them and they therefore resigned, already planning on their return to the sector after an extended vacation¹⁰⁹.

¹⁰⁸ See Appendix for examples

¹⁰⁹ Interview 04, 24/03/2023, Interview 5, 27/03/2023

Thus, what becomes visible here also, is the dissatisfaction and lack of identification with the company resulting in a lack of loyalty, which ultimately favours the 'exit-option'. Even though the respondents said that they would sometimes be without a job after leaving the call centre, they did not seem seriously concerned about this.

Importantly, after having worked in the call centre once, the idea is that finding another job at a different call centre will not be too challenging, given on the one hand their acquired experience¹¹⁰ and on the other hand the high number of jobs available in the sector¹¹¹.

Broadly speaking, it can be suggested, that Teleperformance and other companies have already started to feel the accumulative effect of people practising call centre hopping, moving it from the covert sphere of resistance to a more visible form. Catching the gaze of the company translates on the ground into the fact, that countermeasures are being adopted, just as Scott (1985) predicted, and call-centre hopping is discouraged by installing barriers for smooth re-entering. Teleperformance, for instance, will block and prevent the re-entrance of any employees who ended a prior contract at Teleperformance before reaching the six months mark. This practice seems to be common as Carolina, who has been unsuccessfully trying to re-enter the call centre sector for months, was told by an HR person of a different BPO that the time she had too many short call centre experiences on her CV¹¹².

Finally, returning to a more structural reflection, it must be acknowledged that the individual's action also affects their fellow workers and the opportunity structure to address deficiencies collectively: When I asked David about the difficulties he had faced when trying to mobilise some fellow workers he put off *"And if they don't like one, well then they go to another one, because, what you already mentioned – there is like 40 [call centres], so obviously, they will not take to the streets because also its not as if they didn't have an alternative if they were to kick them out. It's more like a "If you want, fire me, and I go to another one. So because of that there are no public protests because changing employment is easy".*¹¹³ What becomes evident here is that by choosing the exit strategy, the individual does not only do without trying to change their own situation in a more structural way, but also their fellow workers' situation (Hirschman, 1970).

6.5 Voice: Openly articulate discontent in the company

Following Hirschman's (1970) dichotomy, the second available option for workers to address discontent is to voice it within the company to seek redress. Again, for Scott (1985), this would not classify as a weapon of the weak, given its visible nature.

¹¹⁰ E.g. Interview 6, 29/03/2023; Interview 11, 19/04/2023

¹¹¹ E.g. Interview 5, 27/03/2023; Interview 16, 28/04/2023

¹¹² Interview 11, 19/04/2023

¹¹³ Interview 19, 04/05/2023

Nevertheless, the reported experiences of the former Teleperformance employees regarding 'voicing' allows us to understand, why for instance exiting or covert forms of everyday resistance gained more popularity. In a nutshell, there is little outlook for success in seeking help or change within the company, as I already illustrated in the previous chapter regarding mental health complaints.

Contacting the direct supervisor was usually the first step, however, most of the time, this would rarely lead to a satisfactory outcome for the agent: *"With some colleagues we told the supervisor 'look, the line is really jammed at lunchtime, can you do something? Because they're not going to listen to us. But maybe you can talk to someone from the workforce, which is the team in charge of the schedules, etc. And she said, 'Oh well, I'm going to talk, let's see what they say'. We don't know if she really said that or if they took it into account, but clearly nothing happened."*¹¹⁴ recalls Juan David for instance an occasion, in which he and his co-workers drew their supervisor's attention to a too high workload. Also, the examples I discussed in the previous chapter on the company's response to mental health issues must be recalled here. Similarly, Santiago approached his supervisor to investigate his wage deductions and the supervisor's response was that his own salary had also dropped and that if Santiago wanted an explanation, he should speak directly with the accounting department.

For Santiago, this was not really an option: *"I don't think it would have made any difference going to the site because there are a lot of people who ask to speak to them, so sometimes you have to go out of your working hours and look for them to see if they will attend to you, which in my opinion is a waste of time that is not rewarded so it's not really worth it."*¹¹⁵ Several other agents described similar experiences when trying to resolve their problems with the HR or Accounting department: access was perceived as nearly impossible and if achieved, an expert knowledge asymmetry was played out against the agent¹¹⁶. After all, those experiences contributed to a sense of resignation and that the effort required to use the internal complaint channels would generally not pay off¹¹⁷. This was also evident in David's answer when I asked him who he turned to within Teleperformance when he tried to address problems: *"With the entire world! I talked to supervisors, I tried to talk to operation managers, to Human Resources, and even to the guards in the buildings. But nobody pays attention to you, not everything is as it is, you don't know what it's like. It's like trying to swim against the current. No, no, no, it doesn't make sense! It doesn't make sense, the only person affected is going to be you."*¹¹⁸

¹¹⁴ Interview 8, 01/04/2023

¹¹⁵ Interview 3, 24/03/2023

¹¹⁶ E.g. Interview 9, 10/04/2023; Interview 10, 17/04/2023

¹¹⁷ E.g. Interview 3, 24/03/2023; Interview 7, 30/03/2023

¹¹⁸ Interview 19, 04/05/2023

On the one hand, the abovementioned structure of the company passing on responsibility and being as little approachable as possible for the agents both physically, but also in terms of specialised vocabulary can be understood as a strategic weapon of the company. While the earlier mentioned 'funnel' works in a way in which increasing pressure is created from the top to the bottom, it also works the other way around as a tool to provide justifications and generate acceptance. This point will be further illustrated in the next section.

On the other hand, however, it must be considered, as with Santiago's example, that the company's strategy is effective, because of the very profile of many of the agents. Recalling David's earlier presented analysis of the management style we then see, that voicing is also unpopular, because the agent is still in their comfort zone – or because call centre hopping is an easy alternative (Hirschman, 1970).

6.6 Loyalty: *"Those who don't complain understand how to advance a little faster"*¹¹⁹ – Embracing the career ladder

At some point during my conversation with David I mentioned that it surprised me to see that in Bogotá, where you can see at least one public demonstration per week, there has not been a protest of call centre workers, especially given that there are so many employees in the sector and its deficiencies seem to be common knowledge: *"Ah sure, no, [...] they don't complain because those who don't complain understand how to advance a little faster and the few who do complain are so few that it would be a march of 100 ragamuffins."*¹²⁰ His comment was indicative of an internal unspoken rule that also other respondents confirmed: if you want to stop working on the phone, but try to make a career in one of the higher positions, you better not call out what you see. This then offers another potential reason, why the 'voice' option enjoys little popularity and is closely tied to Hirschman's elaborations on loyalty (Hirschman, 1970). I argue that loyalty is the best way to benefit oneself within Teleperformance. Embracing the career ladder can be considered the extreme opposite of call centre hopping. It is a strategy that allows the individual to escape the everyday problems faced as a call agent. At the same time, this strategy is closely linked to the earlier presented work culture which turns into a decision, the promoted agent will face: reproducing the system or resisting the system.

First, it needs to be remarked that just like call centre hopping, also climbing the career ladder means not leaving the sector. Interestingly, while the focus of my research was on the issues, the *agents* would face in their work experience, it seems, that choosing the career path does not necessarily free the employees from all problems produced by the working environment. Rather, the problem set seems to change slightly while the financial compensation, therefore, increases:

¹¹⁹ Interview 19, 04/05/2023

¹²⁰ *ibid*

As mentioned previously, Leidy did not see herself long-term in the sector and kept applying to jobs that matched her university degree. Yet, she tried making a career at Teleperformance. When asked for her motivation, she noted determinately *'Because responding to calls is bad, it's the worst! (...) Getting out of the line is what everyone wants'*¹²¹. This comment was noteworthy, especially considering her description of the perceived exploitation in her time as a supervisor:

'I was literally working from 7 AM until midnight – I'm not even exaggerating – because I had so many tasks and besides, I had to do extra work because my direct superior, the ACCM¹²² didn't do anything, she didn't know how to do anything, so I had to do the work. (...) Like yes, they exploited me, but it was also because I decided to stay there. Like I decided to accept all the extra work my superior gave me out of hope to grow in the company'. A similar sentiment regarding the 'Teleperformance culture' was confirmed by Camilo¹²³ and Marco: *'As you climb up, economically speaking, your salary is much better and you accept it and part of accepting it is what I told you: It means selling your soul to the devil because you know once you start ascending in positions, you know, that this means having less time'*¹²⁴. In both quotes, it is palpable, that the individuals do not try to attribute blame. Rather, they stress, that for instance accepting longer working hours was part of a decision they took themselves.

Among my respondents, four had started their time at call centres as agents, though during their time there, they climbed the career ladder and three of them ended up working in Teleperformance in a different position, no longer responding to calls dealing with angry customers but making others do it. It was also them, who spoke most positively about the skills they had acquired during their time in Teleperformance and displayed the greatest degree of identification with the company (Hastings, 2011): Both Marco and Camilo for instance did not hesitate to confirm that they would work again for Teleperformance if they were to receive an offer to work higher up the career ladder. Interestingly, both have in the meanwhile worked in call centres they described as a less "squeezing" and less individualistic environment, yet, in case of returning to TP they would not try to change the prevalent work culture and accept practices such as unpaid overtime as unnegotiable parts of the deal¹²⁵.

Climbing the ladder does not only mean not necessarily finding better working conditions, but also actively reproducing the very structures of the call centre described in Chapter 5 and the everyday pressure and agony for the agents, they themselves once were (because this is a requirement for working in a higher position) and wanted to escape:

¹²¹ Interview 13, 20/04/2023

¹²² Account Contact Center Manager

¹²³ Interview 15, 28/04/2023

¹²⁴ Interview 16, 28/04/2023

¹²⁵ Interview 15, 28/04/2023; Interview 16, 28/04/2023

*'I am very grateful because they formed me and they showed me a world I didn't think I'd live in, neither that I'd grow in it. But this training has also charged me as an exploiter. Because even though I'd try to not replicate the practices, the pressure turns you into this [...] There is a certain structure that after all justifies all those decisions in a certain way.'*¹²⁶ Maybe here more than with any of the other strategies it becomes palpable, that individualised strategies of resistance do not necessarily only mean not fighting for others, but that fighting for oneself can imply actively contributing to the suffering of the others.

While many respondents described the everyday relationship with their supervisors on a personal level as good, there was also a general sentiment, that those, who had ascended forget about what it is like to work in line¹²⁷. Again, this was for instance also palpable in my conversation with Leidy previously mentioned, when she on the one hand described responding to calls as the worst job and mentally draining, while shortly later making fun of those who complain about mental health issues from their work¹²⁸. A similar comment was also made by Marco¹²⁹. This indicates a lack of identification with those in the line and a preoccupation with meeting the more technical targets they are commissioned with from further above. On the one hand, it results in the production of increasing pressure on the agents, on the other hand, the lack of understanding also means, that the affected agent's efforts to voice problems fall on deaf ears, as illustrated in the previous section.

The system of the career ladder works because the promoted get rewarded for exploiting

David was very conscious of the trade-off in terms of limited private time that comes with ascending. Therefore, in nearly eleven years in the industry, he has not had any ambitions to follow the career ladder. When asking him about the relationship between agents and superiors, he suggested an explanation of how the career ladder option can make the newly ascended oblivious about their own past and turn them into tools of the company by drawing on a dystopian novel by Colombian writer Fernando Aparicio (2019) *'At the end of the book, he describes that the very people, provided that they receive money in return, will always attack themselves, their neighbours, their friends. Unfortunately, in the call centres, it's the same: the supervisors for instance do the same: they get paid more and get told 'you're no longer an agent, you're now on the expanding and exploiting side, you, you, you so many things until they forget that they used to be agents as well. (...) Of course, this is not the case with all of them, but in my experience, it was like that most of the time'*¹³⁰.

¹²⁶ Interview 16, 28/04/2023

¹²⁷ E.g. Interview 8, 01/04/2023; Interview 9, 10/04/2023; Interview 10, 17/04/2023

¹²⁸ Interview 13, 20/04/2023

¹²⁹ Interview 16, 28/04/2023

¹³⁰ Interview 19, 04/05/2023

Despite having not chosen the path himself, his observations hence mirrored a similar perception in terms of trade-offs and exploitive structures as reported by those who actually did take the path. Further, just as suggested in the section on call-centre hopping, the perceived lack of alternatives outside the sector must be recalled.

As indicated at the beginning of this section, having climbed the career ladder at least theoretically holds the potential to initiate resistance from a more powerful position. Further, it links to my description of the work culture at the beginning of the previous chapter: After all, companies are constructs and those who take decisions, those who actually have power, remain to be humans. If we manage to have more humane values in those leading operations, and making decisions, we can move to a different corporate culture. For example, this is reflected in Juan David's story. He no longer works for Teleperformance directly, but for one of their subcontractors that is in charge of recruitment of prospective Teleperformance call agents. After having suffered from anxiety during his time in the company he is now selecting those who will succeed him in the same position *'Yes, it triggers an empathic response in me because I know that I am probably sending a person to experience their worst hell in life... but I guess that the phrase that sums it up best is 'it is what it is' (...) I mostly feel it when I see people who are all excited and then I give them an advice on a more personal note, like a heads up'*.¹³¹ What comes to the fore here is the respondent's inner conflict and the effects of individualisation: He is well aware of the deficiencies in Teleperformance Colombia's work culture and the grievances that the call centre agents endure on a daily basis. At the same time, however, getting out of this situation himself means, that he is willing to accept putting others into the situation. This was even clearer when he mentioned at another point during our conversation that he tried to land a job in the HR department of Teleperformance directly, since, in his view, this was a very good job.

His case is thus a paradox, of, on the one hand willingly becoming part of the exploitive system, while on the other hand, not fully losing out of sight the individual human and the hope that a change could be possible. In practice, he has developed covert everyday practices of resistance like being transparent and warning applicants on private notes. Further, he is one of the few people who has repeatedly posted in the Facebook group to call for a more organised form of resistance and structural change and is part of the group of youths who are talking about how to relive the Sinditecc union¹³² and create greater conscience for workers' rights in call centres. While on the surface a more visible form of resistance, for him, this could be the less dangerous form of commitment for his own job security since his resistance does not target his direct employer.

¹³¹ Interview 8, 01/04/2023

¹³² I present the role of the unions in greater detail in Chapter 7

During my data collection, however, he seemed to be rather an exception as some people I contacted for interviews explicitly said they were no longer interested in the issue since they no longer worked in Teleperformance.

Closing reflection on the career ladder: crafting acceptance of exploitation

What struck me very much was the fact that certain practices and abuses are accepted in order to climb the ladder, while at the same time, the pressure does not seem to diminish, and the work does not seem to become more enjoyable once one has climbed the ladder - at first glance, the only improvement seems to be reflected in the increased salary. Hirschman (1970) acknowledges the potential impact of socioeconomic factors on an individual's decision to speak up or leave. Interestingly, however, his prediction that those with higher status would be more likely to choose the 'voice' option and those from less favourable socio-economic backgrounds would be more likely to choose the 'exit' option contrasts with my findings regarding the career ladder. The situation I found at Teleperformance is indicative of a work environment in which advancement is based more on personal relationships than on skills, and in which acceptance and thus reproduction of the individualising work culture is an indispensable prerequisite. In practice, this means that speaking out automatically means not being able to move up in the company. Ultimately, this also makes it difficult, or rather highly unlikely, for individuals to use their more powerful position to improve the prevailing work structures. Nevertheless, small acts like those of Juan David or Marco show that there is still room for the weapons of the weak, which go unnoticed by the company and therefore do not threaten their own job security but can still have a positive effect on others¹³³.

6.7 The role of legality

Exploring the role of legality in the conflict at hand is important given the focus of this thesis on the meaning of a specific law, but also, since I could indeed identify it as a means of resistance, workers frequently invoke. At first sight, this might be surprising when recalling the profiles of the average TP agent. I mentioned how many respondents reported that the call centre job was one of their first work experiences and they had no other reference point or, more generally, that they lacked knowledge about their rights as workers¹³⁴. Sometimes this explanation was even given in an apologetic tone to justify why they had not taken action against encountered problems¹³⁵.

¹³³ Interview 8, 01/04/2023; Interview 16, 28/04/2023

¹³⁴ E.g. Interview 10, 17/04/2023; Interview 19, 04/05/2023

¹³⁵ E.g. Interview 6, 29/03/2023; Interview 7, 30/03/2023

On the ground, this was contrasted by respondents' use of legal language by explicitly linking the company's failings to, for example, the *Código sustantivo de trabajo*¹³⁶, sometimes even to specific articles¹³⁷ or their reported use of a *tutela*^{138 139} or *derecho de petición*^{140 141}. And also, the previously recounted example of Natalia, who is currently taking Teleperformance to court, has to be recalled here.

In the context of Teleperformance, the channels offered by the Colombian judiciary have been used mostly to take action regarding the underpayment of wages and problems with the payment of liquidation after ending the contract. Hence, resort to official channels is sought, when the legal knowledge of relevant rights is given to a sufficient extent to substantiate and legitimise their claim. Widely, this measure was perceived to be successful and former employees could effectively claim compensation for outstanding payments. Most people in the country know, at least theoretically, how make use of a *tutela* or a *derecho de petición*, granting them an ostensible sense of empowerment, notwithstanding the questionable efficiency and efficacy of the tools: When asking Lina about whether she took action when she faced problems of wage delays, she explained that *"Personally, I've never filed a tutela, but here in Colombia we have that idea, that the only thing that's effective for complaining is a tutela. But also, legal processes take ages... A guy I worked with for nearly two years told me that he had successfully sued Teleperformance and won 8Mio COP... I'm not sure how true the story is, but he sued them because they had dismissed him without cause. But I'm also sure that this process did not take two weeks only...you need a lot of perseverance."*¹⁴² Again, her comment stresses the culture of legality, the omnipresence of law and the faith, individuals attach to it described by the Comaroffs (2016). Importantly, as I will explain in [Chapter 7](#), said legal procedures enjoy a significant history and a resulting sense of familiarity and predictability in Colombia. This ultimately renders them accessible and convenient tools in specific instances.

At the same time, they are used for individual grievance settlement. Repeatedly, my respondents pointed to the fact, that a single tutela injunction is peanuts for a big company like Teleperformance since it does not threaten internal structures¹⁴³.

¹³⁶ Interview 19, 04/05/2023; Interview 10, 17/04/2023; Interview 8, 01/04/2023; Interview 9, 10/04/2023

¹³⁷ E.g. Interview 10, 17/04/2023

¹³⁸ *'tutela is an injunction that was included in the 1991 Colombian Constitution, with the intention to give individuals easier access to the justice system. Concretely, tutela allows individuals to seek immediate protection of their constitutionally guaranteed rights instead of waiting for the outcome of lengthy and complicated legal battles. Any person can file an injunction without a lawyer before any judge, and judges have a maximum of 10 days to issue their ruling'* (Porrás-Santanilla and Fleischer 2023:2)

¹³⁹ Interview 2, 22/03/2023, Interview 5, 27/03/2023

¹⁴⁰ A *derecho de petición* is a mean to request the provision of information from any public or private entity

¹⁴¹ Interview 19, 04/05/2023; Interview 9, 10/04/2023; Interview 10, 17/04/2023

¹⁴² Interview 5, 27/03/2023

¹⁴³ E.g. Interview 4, 24/03/2023; Interview 9, 10/04/2023

Paula, in that regard, was dreaming of collectively submitting injunctions as a symbolic sign of putting pressure on the company and enhancing the visibility of a structural problem and the willingness to collectively take action against it¹⁴⁴. Her idea also resonated with David's story who explained that in another call centre the sole threat of him and eight fellow agents to file a tutela injunction to claim their outstanding settlement, led to a swift rectifying response from the company¹⁴⁵. His case then illustrates how, in the context of general misinformation about the law, even the pretence of knowledge can become a powerful weapon (see also Porrás-Santanilla & Fleischer, 2023).

Importantly, however, rather than the legal channel itself, it was its symbolic power and the imminent threat of facing consequences that triggered the company's response in the case. Yet, the popularity of legal language among the workers paired with admitting their lack of knowledge about rights is indicative of the fetishism of law, for the faith, that law could indeed turn into an ally in their struggle (Comaroff & Comaroff, 2016). This illustrates how by learning about their rights and legal channels, some of the former workers were able to give greater legitimacy to their actions and demands. In general, then, those who voiced interest in achieving structural change in Teleperformance did not actually believe in the efficacy of the legal system, but rather in the symbolical power of cumulative individual actions. This resonates with the way in which Scott (1985) argues that even though the *weapons of the weak* are frequently used on an individual level, they can lead to systemic effects of resistance and disruption for the dominant party, as they are being used by the many. Law can be insofar an important tool of resistance, as it serves for validating claims of the workers, but in the context of transnational litigation, it can offer a common language to form transnational alliances as visible in the collaboration between the global trade union and the French NGO who had worked together to bring the situation at Teleperformance to the fore (Flemmer, 2018).

Finally, however, it can also be argued that, in a context in which the majority of workers are unaware of their legal rights and obligations, it can be advantageous for Teleperformance, which is aware of the profile of their recruited agents, to simply pretend that everything is in order and to hide behind guidelines that are incomprehensible to most workers. This was evident, for instance in Marco's example quoted to the right.

"I mean, the whole issue of the night bonus that I never got paid. As I didn't have an integrated salary, they should have paid me overtime as well, but one doesn't do it because what for? I mean, what for? [...] What happens is that this is like a lot of lawyer's technicalities that one knows on the surface, but not the substance. And they take advantage of that in Teleperformance and in any other company."

Marco, Interview 16, 28/04/2023

¹⁴⁴ Interview 9, 10/04/2023

¹⁴⁵ Interview 19, 04/05/2023

6.8 Conclusion: Strategies of Everyday Resistance

This chapter has provided an overview of the most used strategies of resistance by the former employees of Teleperformance Colombia. Thereby I could show that the workers possess and master a diverse repertoire of practices that allow them to resist the problems faced in their work environment. At this point, it needs to be remarked, that most of the strategies of resistance collected in this section are happening on an individual level. Even though they are known strategies and were applied by multiple of my respondents, they share as a characteristic that they aim at dealing with/improving the situation of the agent who is taking action, rather than aiming at a more societal or structural effect. Other scholars have pointed to the natural character of the individualised form of resistance as an outcome of the very character of the call centre work which is characterised by control and individualisation, both in terms of content and space (Alves, 2021). While theoretically, they are forms of everyday resistance that not only challenge the imposed regime of control, but they can also potentially still offer a basis for collective resistance.

A second important remark that must be made is that various of the applied practices have been presented by the respondents as successful strategies for dealing with grievances even though in practice, they seem to deliver rather a delay or a shift of experienced problems. This can be better understood when recalling the country context by which the success of the sector can be explained in general. However, this perception, paired with the previously described work culture ultimately poses a significant barrier to efforts of collective resistance as I will show in the next chapter.

Finally, it needs to be stated again, that by reflecting over and over on the meaning of collective resistance, I do by no means intend to delegitimise forms of resistance at the individual level like Scott's weapons of the weak. Rather, the profile of those affected, and the application, perception and outcome of the prevalent repertoires of contention among the call centre workers shape the *opportunity structure* (Tarrow, 1993) in which the Loi de Vigilance has been tried to mobilise. I have shown in this chapter how various strategies of resistance while offering (temporary) relief to the individual, as a side-effect perpetuate individualisation and the general work culture of Teleperformance which ultimately leads to an environment more hostile for collective action, while the latter would be a prerequisite for the Loi being able to "*bite*".

7. The local meaning of the Loi de Vigilance

7.1 Introduction

In this chapter, I will answer the initially posed research question regarding the local meaning of the Loi de Vigilance for the workers at Teleperformance. The argument advanced in this chapter is that, in the case of Teleperformance Colombia, the meaning of the due diligence legislation has been limited – in theory, of course, the company could still be taken to court under the law at a later point.

I locate the reasons therefore in two overarching aspects, namely, a mismatch between the imaginary of the *Loi* and the reality on the ground and a lack of political will. I elaborate on these aspects in more detail in this chapter, before providing some more general reflections on the role of due diligence legislation in conflicts in global value chains.

7.2 Mismatch between the imaginary of the *Loi* and the reality on the ground

In [Chapter 5](#), I already contended that French law falls short of capturing the way, in which responsibility for working conditions in the business process outsourcing sector is distributed. However, there is more aspects, where it becomes clear that the envisioned scenario implicit in the setup of the *Loi* does not match the reality I found in the labour relations at Teleperformance.

7.2.1 The envisioned scenario implicit in the *Loi*: tackling collective problems, contributing to systemic solutions

When presenting the general layout of the Loi de Vigilance earlier, I have mentioned already, that it is not set up as a mechanism for addressing individual grievances, but rather issues affecting a larger group of people. The aim is to redress *systemic* violations of human rights and the externalisation of environmental costs, as well as the underlying conditions that have enabled this environment of corporate impunity in the first place (Beau de Loménie, 2019). This objective was further confirmed by the Sherpa Litigation and Advocacy Officer¹⁴⁶ who elaborated on the selection criteria based upon which the NGO selects the cases they want to bring under the *Loi* “[...] For instance, we wouldn’t take on an individual case. We deal with issues of massive or at least collective dimensions. [...] Obviously, because we are an NGO, we also think about the impact that this registration [of the case] could have structurally, not just in changing the situation for the claimant, but potentially beyond that case”. What becomes visible here also, then is an underlying assumption, that to achieve structural change, it is necessary to have some form of collectivism. This aligns with Tilly’s (1983) elaboration on collective action, rooting the societal relevance and meaning of it in the fact, that it stands for a collectively held interest and hence grants greater legitimacy to the mobilised claims.

¹⁴⁶ Interview 22/06/2023

7.2.2 The situation on the ground: Individualisation and obstruction of collective action

In contrast, in the previous two chapters, I have shown that the workforce is rather individualised, why this is so and what the effect thereof is on a societal level. The mapped reasons include the recruitment of a workforce who perceives their job as a temporary occupation given their more extensive qualifications and low enough dependence on the job to be willing to invest in it on the one hand, and those, who do not see an alternative to their job at the call centre in order to maintain themselves and their families.

The effects thereof are further exacerbated through the cultivated work culture, a carrot-and-stick approach operationalised through the '*funnel of pressure*'. Lastly, the presented strategies, in which the workers commonly engage to address deficiencies encountered in the workplace may well be considered everyday weapons of resistance as they offer relief on an individual scale. At the same time, however, I have reflected on their meaning on an individual and on a societal level, insofar, as that their divisive and further individualising effect became clear. Taken together, it is these aspects then, that on the one hand allow for harm to occur in the first place, on the other hand, they constitute barriers for collective efforts to materialise. This is decisive since the situation on the ground thereby stands in contrast to the envisioned scenario of a collective constituency, the *Loi de Vigilance* seeks to govern. Therefore, here a first suggested barrier for the *Loi* to hold a greater meaning on the ground can be located.

A more nuanced picture: the role of the trade unions

If we talk about collective action, however, we must talk about the role of trade unions in the case at hand. In the conversation with the Litigation and Advocacy Officer, it became clear, that the need for a form of collective organisation on the ground is not least necessary to ensure the collection of suitable evidence, as here the capacities of the France-based NGO are restricted¹⁴⁷. For the present case, this unavoidably brings us to the role of the global trade union, since they had served as Sherpa's partner to put the company on notice. Thus, despite the criticism that the focus on unions has received in the literature (Nowak, 2021), they do remain an important factor in terms of the unit of analysis to better understand the present case. Against the background of the previously described individualised reality, it may come as a surprise now, that I could identify three, at least theoretically relevant trade unions. To better embed their work and challenges, however, I first reflect briefly on unions in Colombia more generally.

¹⁴⁷ Interview 20, 22/06/2023

According to the ILO (2022), the union membership rate in Colombia is 4.7%, placing it among the countries with the lowest rate globally – in South America, only Peru and Venezuela had fewer people registered in unions. This has been explained, among others by the reality of widespread violence against trade union activists (ITUC-CSI-IGB, 2022; UNI Global Union, 2019), but also by a lack of trust in unions due to lack of efficacy and allegations of corruption¹⁴⁸ (Galindo García, 2022; Gill, 2007) and suspected ideological alignments with the country's left-wing guerrilla¹⁴⁹. Others have accused them of even siding with companies, thereby turning into a tool of greenwashing for them¹⁵⁰.

Among my respondents, half of them did not know that there had been unionising efforts in Teleperformance, suggesting a lack of visibility as an additional explanatory factor¹⁵¹. Among those, who had indeed heard about union work, many did not believe that it would actually be able to achieve a change of the current situation due to one of the abovementioned reasons¹⁵². Again, however, the profile of the agents presented in [Chapter 5](#) is worth recalling here, as there seems to be little disposition to invest politically in the workplace as it is deemed as a temporary occupation.

“No, look, unions don't exist in the call centres. I remember [...] that they even told us explicitly that the company doesn't like unions and that you have to be careful with his. [...] The instructors and the supervisors told us that we should be very careful with these topics because they could sack us.”

Alejandro, Interview 6, 29/03/2023

On the ground, the first relevant union I would like to present is *Sinditecc*. In 2020, a group of workers from Teleperformance and other call centres got together to seek the help of a lawyer, mainly because of the health situation during the pandemic and their dissatisfaction with their employer's handling of the situation. Soon, however, other workplace problems were shared and *Sinditecc* was registered as a union to defend the rights of the mostly young call centre workers (Galindo García, 2022). Due to the pandemic, most of its activities were online, including webinars aimed at filling the knowledge gap surrounding workers' rights, directly addressing one of the structural problems identified in [Chapter 5](#). However, when I spoke to *Sinditecc*'s legal adviser, she told me that they had to stop their activities because more and more people were leaving the union, either because their contracts were being terminated, others were afraid that this would happen, and others had found work in another sector¹⁵³.

¹⁴⁸ Also Interview 16, 28/04/2023

¹⁴⁹ Also Interview 2, 22/03/2023; Interview 19, 04/05/2023

¹⁵⁰ Small talk 28/02/2023

¹⁵¹ E.g. Interview 7, 30/03/2023, Interview 12, 20/04/2023

¹⁵² E.g. Interview 16, 28/04/2023, interview 10,17/04/2023

¹⁵³ Interview 2, 22/03/2023

Secondly, as briefly mentioned in [Chapter 4](#), in 2019 it had been *UNI Global Union*, a renowned global union association that had reached out to Sherpa Law Association to put Teleperformance on notice under the French Duty of Vigilance Law (Sherpa, 2021). The organisation had carried out investigations on a global scale and on the situation in Colombia, in particular, to back up its claims (UNI Global Union, 2019).

On paper, since 2021, TP workers have had the option of joining *UTRACLARO*¹⁵⁴, which is also a member of UNI Global. This step seemed to be overcoming one of the deficiencies voiced in Syndex' report as being a decisive step for having a platform where workers can exchange their experiences, advocate for better working conditions and have a formal basis for collective resistance (*Unión de trabajadoras y trabajadores de Claro y las TIC*, 2021). On the ground, however, union busting, and intimidation practices continued, significantly hampering the work of the union.

Unlike *Sinditecc*, which was 'born' in the call centres, this is the national union for the ITC sector, which, according to *Sinditecc*'s legal adviser, has included the call centre in its mandate, following a recommendation from *UNIGlobal*¹⁵⁵. As a result, she felt that *UTRACLARO* lacked legitimacy in terms of the level of representation of the workers concerned.¹⁵⁶

In [Chapter 3](#), I have already explained my inability to speak to representatives or members of UNI Global Union or *UTRACLARO*. Both aspects fed into a sense of suspicion that I already had when I entered the field. This stemmed from my observation that several reports and statements by UNI to illustrate Teleperformance's wrongdoings and breach of its duty of care had been removed from the union's website. A written request for the reasons for this action was refused, as was an interview. The latter was justified by the fact that the organisation was currently in negotiations with the company. Also, Sherpa, UNI's partner in filing the formal notice on Teleperformance could not provide me with further information on the issue¹⁵⁷.

Furthermore, for better comprehending, the challenges of union work in the selected case, it must be recalled that union busting and the resulting spread of fear of job loss had already been identified as a widespread problem at Teleperformance in one of the reports that first drew my attention to the case (UNI Global Union, 2019). *Sinditecc*, the union formed during the pandemic, together with UNI Global, submitted several letters regarding the unjustified termination of the contracts of board members shortly after the union's registration in March 2020:

¹⁵⁴ Unión de Trabajadores y Trabajadoras de Claro y de las Tecnologías de la Información y las Comunicaciones, *UTRACLARO & TIC*, hereafter *UTRACLARO*

¹⁵⁵ Interview 2, 22/03/2023

¹⁵⁶ *ibid*

¹⁵⁷ Interview 20, 22/06/2023

“Two of the founding- and board members were informed about the termination of their contracts and that they should not show up to work but they would receive their full salary until the end of their contracts in July. [...] Later, [...] the company did not renew the contracts of 13 other founding members of the trade union. At the same time, Teleperformance Colombia announced the hiring of 4.000 new workers”.¹⁵⁸ (UNI Global Union Americas, 2020). But also the cases of harassment mentioned above for standing up for one's own rights or the rights of colleagues support this aspect.

In short, there is a fear of losing one's job, which in the case of Teleperformance Colombia is fuelled by harassment, intimidation and unfair dismissal ¹⁵⁹ (see also Alves, 2021). On the other hand, however, the fear of losing one's job cannot be the only reason for not joining collective efforts, if we recall the practice of call centre hopping presented earlier, according to which the possibility of getting a different job seems palpable enough.

7.2.3 Lack of awareness and accessibility of the *Loi*

A second aspect of the case under scrutiny brought to the fore is a local lack of awareness of the *Loi de Vigilance*. A few weeks into my fieldwork I had to admit that I could not really find people who could help me to understand the background of how the company had been put on notice under the French law a few years ago. The only people who had heard about it seemed to be the legal experts, and, presumably, the trade unions with whom I could not speak. Therefore, the apparent lack of wider awareness of the legal mechanism led me to conclude that putting the company on notice had not turned into tangible effects on the workers.

At the same time, however, it must be stressed that I did not find a strong interest in structurally addressing the problems experienced on a daily basis. Again, although there is a general awareness, that the causes of discontent and suffering are more systemic than individual, what most agents are looking for is redress for their *individual* grievances. For this purpose, the *Loi* would not have been a suitable direct channel. Rather, it could potentially incentivise and strengthen a collective form of action, that could, after all, indeed benefit the individual. Nevertheless, we return here to the vicious circle closely linked to the profile of the call centre agents, which, in addition to individualising and intimidating corporate practices, renders it unlikely that individuals will be willing to invest in forms of collective action. After all, a sound understanding of the *Loi* on the side of the claimants would be indispensable also, since the burden of proof rests with them (Bernaz, 2016; Ewell, 2022). But for instance, while having a broad formulation in the legal text allows for bringing an extensive range of violations under the Law¹⁶⁰, its operability and accessibility for those directly affected might be less.

¹⁵⁸ Interview 2, 22/03/2023

¹⁵⁹ i.a. interview 2, 22/03/2023; interview 10, 17/04/2023; interview 15, 28/04/2023; interview 19, 04/05/2023

¹⁶⁰ Interview 20, 16/06/2023

For instance, there is no clarity in the decisive question of who can submit a formal notice and file a lawsuit since the term '*standing party*' is not specified further. There is no known example in which a claim was rejected based on the lack of standing, nevertheless, the theoretical possibility is given in the current phrasing of the legislation (Ewell, 2022).

This finding is complemented by the contrasting availability, accessibility, and familiarity of the means and strategies I presented in [Chapter 6](#). After all, they are compelling and effective for the workers since they offer the prospect of immediate relief. In contrast, under the Loi de Vigilance there is currently no halt of business operations or similar actions envisioned following a formal notice or filing a lawsuit (Ewell, 2022). This matters not least, since employees or other actors affected by corporate conduct may continue to suffer a violation of their rights without being able to hold the responsible parent company liable for their (in)action as long as it has met the vigilance plan's requirements (European Coalition for Corporate Justice, 2018).

The delayed procedure of the processes comes also to the fore in the current record of the Law: So far, the case against the French energy company EDF is the only instance in which the corporation has been found guilty by the civil court (Reporterre, 2022). Hence, it stresses the complementary character of legal action as a more long-term solution, compared to actions such as strikes or protests that can trigger more immediate but short-term responses. It then turns into a part of a more elaborate strategy, part of a repertoire of contention. Again, for many Teleperformance workers, however, a long-term solution is of little interest since they do not see their future in the company but have '*greater aspirations*'¹⁶¹.

Furthermore, reflecting on the legal channels alone, the *tutela* injunction and the *derecho de petición* are widely known for both their strengths and their weaknesses, most notably the delay of the process¹⁶². Yet, this familiarity and the consequent predictability of the domestic law ultimately pose a significant barrier for the foreign law to gain greater local support and strength, as the benefits are not visible (Araujo et al., 2019). This is a barrier that has already been explored in the context of human rights and other transnational concepts. Vernacularisation, the dissemination of the concept through adaptation to local contexts, is key to enhancing local meaning and persuasiveness (Merry, 2006). This is partly reflected by Amaya Castro and Henao Zuluaga (2022) who point out that, in order for due diligence legislation to become more relevant, it must no longer be a North-South project only, but must also be discussed and addressed in the host areas of corporate abuses.

¹⁶¹ Interview 19, 04/05/2023

¹⁶² E.g. Interview 9, 10/04/2023

Ultimately, however, this process must not be confined to the legal sphere but must be accompanied by institutional arrangements and further strategies to achieve societal relevance which remains a lengthy process.

Lastly, beyond the question of accessibility, also the question of responsibility adds to the apparently low persuasiveness of French law in the case at hand. There is a shared understanding, both among the affected workers and the Ministry of Labour, that the Colombian state ultimately holds both the power and a duty to provide and enforce the frame to which Teleperformance and other

“I know that just like any international company, TP is subject to the laws of the country, so whatever the law of the country says is done. So in this case, Colombian law. So if they do something in France that has a greater impact here? I don't think so, because they have to play under the laws of each country.”

Santiago, Interview 3, 24/03/2023

companies have to adapt to¹⁶³. Current developments that must be noted, accordingly are for instance a recently adopted labour reform which foresees, among others, the gradual reduction of working hours.

This means that Colombia would lose some of its competitive appeal for multinationals like Teleperformance and it remains to be seen whether foreign direct investment will be reduced and thereby unemployment increases or whether Colombian workers can indeed benefit from improved working conditions¹⁶⁴.

7.2.4 Lost in translation: Mapping the problem to the *Loi*

Third, the aforementioned problem of translating the French norm into the local Colombian context also applies in reverse: When presenting the literature on access to justice and the ‘*ROLAX framework*’, I explained that for case identification I had to start from a legal problem definition, from which I stepped back in the field for a more holistic data collection. If the aim is to assess the meaning of the *Loi*, then a key question is whether the scope of the *Loi* is sufficient to adequately accommodate the problems experienced by the workers or rather their root causes. During my fieldwork in Bogotá, I kept asking myself whether there really was a ‘case’ or whether I was making it up or framing it as a case. Soon I realised, however, that this was owed due to the fact, that I was not necessarily finding the same legal allegations that I had read about previously. Again, this does not discredit the testimonies and grievances of the respondents, but rather reaffirms the issues resulting from mapping a real-life problem onto a legal framework and illustrates how important aspects get lost in translation.

¹⁶³ i.a. Interview 3, 24/03/2023; Interview 17, 02/05/2023; Interview 8, 01/04/2023; Interview 9, 10/04/2023

¹⁶⁴ Interview 1, 15/03/2023; Interview 2, 22/03/2023; Interview 6, 29/03/2023; Interview 16, 28/04/2023

In fact, the details that came to the fore during the fieldwork were much more than what could have been mapped onto the Loi when the notice was filed. While most of the respondents would agree with the aspects that the notice focused on, such as underpayment of wages or union busting, the factors of pressure and mental health problems due to the work structures at Teleperformance Colombia seem to have been a much more pressing issue for most of the respondents. It, therefore, echoes the descriptions of the exploitative work conditions in call centres in general, which shed light on the precarious workforce in a globalised, urban context (eg. Hastings, 2011; Ponce, 2017; Woodcock, 2016). It means that even if those abuses, that can be mapped onto legal categories, were to be solved, on the ground the described work culture geared towards capitalist profit at the cost of worker-wellbeing could persist. It also means that Teleperformance could enjoy even greater political legitimacy because it is supposedly fulfilling all its corporate duties towards people and the environment. This means that the Loi, like other instruments of value chain governance, could reinforce the power asymmetry in favour of the company over the workers, as it ostensibly addresses structural problems but, on the ground, there is no real effort to do so.

Furthermore, there are aspects that are simply beyond the scope of the company's power as well, yet they can reveal other structural challenges. If Valeria and Juan David find themselves in a situation in which they're mentally drained because they opt for working a 48hrs full-time week while pursuing their university degree, it is their decision to do so, and the company cannot be held liable for them being burned out. The structural problem of hardly accessible higher education due to a mismatch of tuition fees and the average wage in the country is what is more illustrated by this aspect and is not a responsibility to be assumed by the multinational employer.

This identified gulf between problem reality and legal categories thus shows how the focus on legal problem definitions, encouraged by the Loi, as comprehensive, as it may seem, ultimately leads to a depoliticization of more systemic problems, and could even contribute to obscuring them (Eckert & Knöpfel, 2020; Kirsch, 2020; Porras-Santanilla & Fleischer, 2023).

This depoliticising aspect is even aggravated by the fact that the Loi was invoked in the Teleperformance case, but adjudication has not been achieved. Both the French Advocacy and Litigation Manager¹⁶⁵ and the representative of the Ministry of Labour¹⁶⁶ expressed a preference for an out-of-court settlement. In the case of the government, this is in fact what is happening at the moment in the previously mentioned multi-stakeholder negotiations. *“Yes there are legal violations, Teleperformance has committed errors, sometimes serious ones, with groups of its workers. [...]*

¹⁶⁵ Interview 20, 22/06/2023

¹⁶⁶ Interview 17, 02/05/2023

We believe that the company is important in the country and also has the will to improve its management system, and the unions share this vision. So for the moment, it seems to us that this solution is better than simply sanctioning [...] but not in a change in the organisational culture, which is what we are looking for."¹⁶⁷ clarified the representative. While on the one hand, his argument is compelling as a sanction would indeed tackle the previously described work reality on the other hand, the avoidance of seeking legal sentence matters insofar, as adjudication '*leads to public recognition and acknowledgement that abuses were committed*' (Lindt, 2020, p. 70). First, this step could be crucial for strengthening the demands of social movements by awarding them greater legitimacy (Couso et al., 2010; Gentile & Tarrow, 2009; Gill, 2007; Lindt, 2020), but in the present case especially for legitimising the complaints of the affected workers. And second, opting for an out-of-court settlement also matters in the broader context of efforts to fight corporate impunity through legal liability as it hinders the establishment of precedents (Araujo et al., 2019; Bernaz, 2016; Kirsch, 2020; Lindt, 2020).

Finally, the issue of translating the real-life problem is further closely related to the construction and attribution of responsibility (Bedner & Vel, 2010). In this context, the aforementioned role of the call centre client is worth recalling. According to the *Loi*, only Teleperformance, and not the client itself, can be held responsible for deficiencies in the working conditions of the call centre assistants. The only exception, of course, is if the client is also headquartered in France. Although labour relations can be partly understood as the result of the negotiations between the call centre and the client, the *Loi* hence favours an environment in which the latter can avoid assuming responsibility. Without downplaying Teleperformance's responsibility, this observation is also in line with another recurring concern regarding the significance of national due diligence legislation: as long as companies can redirect their operations to countries with more favourable legislation, a substantial change in the exploitative structure is unlikely (Bilchitz, 2016). Interestingly, this client leverage was also echoed in UNI's 'Outsourcing Injustice' report on the work situation at TP Colombia. Revealing the company abuses found in the operations they call on client companies to hold Teleperformance accountable for the listed violations (UNI Global Union, 2019).

¹⁶⁷ Interview 17, 02/05/2023

7.3 Returning to World Systems Theory: Suggesting a lack of political will

At the beginning of the thesis, I have located due diligence legislation in the tradition of previous ‘*core-periphery*’- efforts that have revolved around addressing harm caused in global value chains. This has provided me with a theoretical basis to problematise the due diligence in the sense, that I questioned, whether, given the origin of the tool, there was a genuine interest to be expected to transform the systemic asymmetries that allow harm to occur in the first place, as this would imply a loss of power of the Global North. I shall now illustrate how I found this hypothesis confirmed on the ground.

Ultimately, my concern in this thesis is to bring the perspectives of the South to the fore in order to provide critical feedback to existing mechanisms. At the same time, it can be argued that this is still a step too late, as it ultimately leaves untouched the fact, that the ‘*appropriate*’ tool to regulate corporate behaviour, is decided and designed in the Global North. In the same vein, Lindt (2020, p. 60) observed at a conference on business and human rights that the prevailing consensus is that ‘*access to remedy in the countries of the Global South was ‘unrealistic’ anyway and that the search for the means to compensate for harm, therefore, had to be centred on the Global North*’. Thereby she highlights not only the lack of inclusiveness of these processes but also a patronising attitude that reaffirms the global power asymmetry between core and periphery. This is done not only by attributing the empowering capacity for a remedy to the Western transnational judiciary but also by allowing ‘*the North*’ to decide on the problem definition.

7.3.1 An enforceable mechanism?

When presenting the mechanism, I highlighted the advantage of being enforceable. In practice, however, the political will to ensure enforcement seems to be missing, as has been also pointed out by Schilling-Vacaflor (2021). First, it is worth noting that no administrative responsibility to ensure monitoring and enforcement is designated. This can be interpreted as a failure of the French state to establish a credible commitment to curb corporate impunity (Amaya Castro & Henao Zuluaga, 2022; Schilling-Vacaflor, 2021). This gap, which has been identified and is being addressed by several NGOs for example visible with an independently launched monitoring website. *The Vigilance Radar* currently lists 263 companies subject to the Loi. At the same time, however, the NGOs responsible for the website have pointed to the lack of sufficient publicly available information needed for a comprehensive identification, consequently the incomplete nature of the list (Savourey & Brabant, 2021). Likewise, it is mainly NGOs, trade unions and communities, that have so far triggered the mechanism, rather than a designated state body (Sherpa et al., n.d.).

On the one hand, this is significant because it indicates a lack of political will on the side of the French government (Schilling-Vacaflor, 2021). On the other hand, it is a reminder of the institutional limitations of NGOs in terms of financial and operational capacity, as well as access to relevant information (Aristova, 2021; Savourey & Brabant, 2021): Often, parallel *naming-and-shaming* campaigns are launched to encourage broader civil society engagement (e.g. <https://affaire-bnp.fr/>). Further, it became evident during my conversation with the French NGO Sherpa that is not only monitoring the implementation of the law, but has also co-filed several of the filed complaints and lawsuits. Given the lack of commitment to the *Loi* by the French government in terms of persecution and their own lack of personnel and financial capacity to focus on a larger number of cases. Therefore, seeking to achieve a greater effect, Sherpa strategically selects cases that are pioneers of their kind and can serve as a blueprint for similar cases and/or have a deterrent effect on companies directly¹⁶⁸ (Brabant & Savourey, 2020).

Secondly, it is worth considering the record of cases brought under the *Loi* so far. In only one case, adjudication has been achieved. In the other occasions, processes are pending, and companies have issued statements promising to rectify their conduct. In one instance revolving around a large scale oil-project in Uganda, the process has been delayed by protracted struggles to ensure that the case would be decided under civil and not commercial law. The parent company argued along the lines of the previously mentioned separation principle, thereby denying their duty of care to avoid liability for wrongdoings (Brem, 2021). On another occasion, the judge encouraged the disputants to seek an out-of-court solution facilitated by a mediating party, a suggestion rejected by the plaintiffs. (Sherpa, 2022). The pitfalls of out-of-court settlements have been presented previously, as they ultimately avoid confirming the liability of the perpetrating company and the construction of a basis for case law (Araujo et al., 2019; Bernaz, 2016). In both cases, there is no further documentation on the more recent history of the conflict.

Finally, it must be noted, that in all sixteen cases, French or European NGOs can be found among the claimants (Brabant & Savourey, 2020). The emerging question is then whether due diligence legislation can be seen as a way to construct dependency. It indicates a continued reliance of victims on international solidarity networks to make their voices heard suggesting a persistent power asymmetry between actors in the Global North and the Global South (Das & Hussain, 2017). Ultimately, this bears the risk that it is not those affected in the Global South, but their intermediaries or spokespersons in the Global North, who frame their grievances and determine their claims (Dunlap & Arce, 2022; Lindt, 2020). The problems thereof have been displayed in the previous section.

¹⁶⁸ Interview 20, 22/06/2023

7.3.2 Understanding the structural dependence

The problem dynamics that I have sketched show that it is not only a question of whether Teleperformance pays its employees correctly or not. Rather, it is about the structural conditions that make this possible. These include the power hierarchies within the company, but also the global North-South divide and the continued exploitation of the latter by the former. Alejandro illustrated this as follows: *“You do this kind of work out of necessity. And you accept certain conditions out of necessity. And a thought, that you have here in Colombia is like ‘And if they leave the country [...], I think they’re now the second or third largest employer in Colombia... and if they were to leave? That’s when you get desperate, and this kind of fear makes you adapt to these ugly situations.”*¹⁶⁹ What becomes clear then is the deeply entangled nature of how toleration and acceptance of questionable working conditions on the ground can be engineered through the relative dependence the company has successfully created on the Colombian labour market.

Since the 1990s Teleperformance has expanded its services to the Americas and today Mexico, Brazil and Colombia are among the countries where it has the largest number of employees (Syndex, 2019). In Colombia, in particular, the company’s success can be explained by its ability to offer competitive salaries while asking for little entry requirements beyond a High School degree and, ideally, intermediate skills in at least one foreign language for which Teleperformance has (Romero Gutiérrez, 2021; Torres, 2022). This offer is embedded in a country context in which youth unemployment has been between 16% and 26% in the last twenty years (Statista, 2023). Just as with global commodity chains, the country is therefore attractive as a location for the outsourcing of digital service provision due to a large and cheap work force.

In part, this phenomenon of overqualification can be explained by the tendency to associate higher education with the idea of getting a well-paid job, while the availability of such jobs on the ground has not reflected this development at the same pace. As a result, after completing their studies, Colombian graduates face the general difficulty of finding a job in their field at all, or one, that will allow them to repay their student debt. Against this background, companies such as Teleperformance have positioned themselves as an attractive employment option, offering competitive salaries with comparatively low requirements (Romero Gutiérrez, 2021). In Colombia, according to the National Institute for Statistics, in 2022, the BPO sector employed over 600.000 people who produce nearly 3% of the GDP (Estrada Rudas, 2022). Teleperformance Colombia is therefore indicative of how globalisation has brought about BPO and related detrimental impacts on the work environment such as flexibilization of labour relations and work-induced psychological stress (Wolanski, 2019).

¹⁶⁹ Interview 6, 29/03/2023

7.3.3 A more nuanced picture: The potential of using due diligence as a political tool and part of a ‘*smart mix*’

From an existentialist world-systems perspective, it may seem then, that all due diligence efforts are doomed to failure, in the sense that they rather reaffirm the conditions that give rise to the exploitative structures inherent in global value chains. While it is crucial to maintain a critical perspective, it is also necessary to appreciate contributions that law can make locally, thereby acknowledging a certain local relevance. Importantly, the here provided considerations are not based upon the voices of the affected workers, but rather incorporate the findings from the expert interviews and acknowledge the existence of practices advanced by other actors tackling the situation at Teleperformance.

Indeed an important aspect of Tilly’s (1983) repertoires of contention was the fact, that it is not a single ‘*action*’ or ‘*instrument*’ that needs to be considered, but the tactical combination of multiple practices that contribute to the achievement of a larger goal. Likewise, as indicated in the [methodology chapter](#), it would not be analytically useful to assess the meaning of the French *Loi* in isolation (also Gill, 2007). Putting it into perspective also means, that, in the selected case, it is part of ongoing efforts to protect the workers’ rights to form a union, of international media outlets becoming aware of the deficiencies at the workplace and reporting on it (Behn, 2021; McIntyre et al., 2022; Meslet, 2020), the Ministry of Labour declaring the upholding of workers’ rights at Teleperformance as a priority (Vargas, 2022) and a global trade union negotiating a global and a local agreement to improve workers’ rights (Teleperformance SE & UNI Global Union, 2022; UNI Global Union Americas et al., 2023). In the same vein, it must be noted that since being put on notice, Teleperformance has offered several extensive updates of their vigilance plan, responding to the abovementioned concerns, among others, by including case studies of the situation in specific countries regarding threatened workers’ rights (Teleperformance SE, 2021).

Of course, a causal relationship to the initial formal notice in 2019 cannot be established. Nevertheless, it is striking, that in recent years, the issue of working conditions at Teleperformance has been receiving increasing attention from a variety of stakeholders thereby increasing the visibility. Ultimately, however, it remains to be seen, whether these efforts are successful for the workers themselves.

Accordingly, despite the potentially depoliticising effect of due diligence legislation, there is a paradox in the way it has been mobilised as part of a wider political agenda. This is best reflected in the selection criteria for the cases in which the *Loi* has been triggered (Brabant & Savourey, 2020). In the case of Teleperformance it was noted that (1) the majority of the company’s workforce is employed in countries with systematic labour violations, (2) it is a company that has been largely invisible to the public thanks to its business model of business process outsourcing, which (3), contrasts with the fact that most of us have had interactions with its services given their leading role in the sector (Sherpa & UNI Global Union, 2019).

In other cases too, what we have seen so far at the same time, is that cases of large companies being put on notice or taken to court attract great media attention (e.g. AFP, 2023). Even if the processes are slow and may not lead to the conviction of the multinationals, these cases stimulate public debate and can provide a basis for coalition building to put pressure on the offending companies by showing that they are being watched.

On the ground, it means that following this flow of functioning, due diligence legislation, may indeed be meaningful for workers or other people affected by corporate wrongdoings, as a part of a more complex repertoire and strategy. It can be meaningful insofar as it can potentially help obtain compensation for certain endured abuses. Instead, however, it does not address the systemic asymmetry in global value chains which allows for harm to occur in the first place, as elaborated above.

Last update regarding union work on the ground: Agreement with the company in April 2023

Further, returning to the role of the unions, it must be pointed out, that UNI signed a global agreement with Teleperformance in December 2022 (Teleperformance SE & UNI Global Union, 2022) and until briefly before the end of my fieldwork, they were working on a treaty on country level in Colombia (UNI Global Union Americas et al., 2023). What remains is the question, of whether the removal of compromising information on corporate practices was a requirement of the company to enter negotiation with the union. It is especially articulated, in the light of the country context presented above and the comment of Sinditecc's legal adviser on the representativeness of Teleperformance workers within the union¹⁷⁰.

Following the global agreement to improve workers' rights in Teleperformance's operations globally signed in December, Colombia was identified as a key country by the company and UNI Global to operationalise those ambitions through a local agreement. Here, also the government's investigations into abuses within the company played a key role, as since November 2022 around 140 complaints by (former) TP workers were registered and processed. On April 18th, Teleperformance Colombia, the Colombian Ministry for Labour, UNI Global and UTRACLARO celebrated the adoption of a '*historical agreement*' to facilitate union activities in the company in the future and work towards the respect of fundamental labour rights stipulated in international guidelines (McIntyre, 2023; UNI Global Union Americas et al., 2023). It thus remains to be observed now, how union activities on the ground proceed and whether the company's commitment to abstain from discrimination practices will hold true, especially considering the context of structural dependence and the lack of political will for genuinely challenging the company, as described previously.

¹⁷⁰ Interview 2, 22/03/2023

8. Reflections on the meaning of due diligence legislation

With the rise of global value chains, we have observed a trend in which workers and communities in the Global South suffer harm caused by the practices of multinational companies. At first sight, it may seem that it does not matter whether the perpetrator is a local or a foreign company. In practice, however, it matters insofar, as companies may deliberately outsource work to countries in which workers' rights are less protected rights, in order to get away with negligent to abusive working conditions.

Teleperformance SE is one example of such a multinational company that has built its business on the opportunities provided by globalisation, outsourcing its services as a call and contact centre primarily to low-wage and low-rights countries, while registered in France. The working conditions in its countries of operation, among them in Colombia, have been criticised, for the obstruction of unionisation efforts, irregularities in payments and gender discrimination and as such for not working conform to international labour standards. Despite the parent company being in France and the harm occurring in Colombia, there have been efforts to hold the French multinational accountable.

This has been possible through a mechanism emanating from the company's home country itself: In 2017, France followed a recommendation of the UN Guiding Principles on Business and Human Rights and passed the *Loi de Vigilance*, as a legal tool to address harm caused by French companies abroad. The law stipulates the responsibility of the French parent companies for any risks or actual harm in their entire value chains, regardless of their actual geographical location. Large French corporations hold a duty to identify and mitigate or prevent any harm to humans or the environment in their business operations. Against this background, in 2019, a French NGO in collaboration with a global trade union drew attention to the deficient working conditions at the sites of Teleperformance, contending the responsibility of the parent company for rectification. Among others, in Colombia, the company was accused of violating workers' rights in the areas of health and safety, rights of unionisation, irregularities regarding payments, and discrimination at the workplace.

This approach can be located in a tradition of other top-down approaches, with which the above-described pattern of externalising the social or environmental costs of business practices has been addressed. It is 'top-down', or 'core-periphery' in the sense, that it has been proposed and operationalised in the Global North, where the parent companies are located, rather than in the areas where harm occurs.

However, by locating the problem in the actual harm the workers or communities experience, it becomes imperative to explore the workings of due diligence not in its top-down setup, but in its working and meaning on the ground. Only by understanding the meaning it holds for the affected Teleperformance workers in their struggle for better working conditions, we can grasp its social relevance in the context of the proposed problem of harm caused by foreign companies.

Accordingly, in the selected case study I sought to explore the local meaning of the *Loi de Vigilance* for the workers at Teleperformance Colombia. By this I mean, that I wanted to look into the significance, this law holds for the people who are negatively affected by the company. For this, it becomes crucial to also identify and acknowledge other strategies, with which workers have resisted the corporate practice locally, as they provide insights into the perceived problem, room for action and expectations. Therefore, my research was guided by the main research question *How and with what effect have former Teleperformance workers engaged with the Loi de Vigilance in their struggle for better working conditions?*

This is a relevant field of study, first of all, because the current proliferation of due diligence legislation in European countries and beyond is a reality and it is crucial to critically reflect on its workings by taking into account empirical feedback from the sites of corporate abuses. Secondly, bearing in mind the little effect, previous top-down efforts like corporate social responsibility have had on the people at the start of global value chains, it is crucial to problematise the workings of said mechanism. Other value chain regulations have been prone to manipulation for greenwashing practices and ultimately reaffirmed the global status quo that allows for harm to occur in the first place. Examining due diligence legislation in this context allows us to learn from how it works in real-world situations, showing how it's used by workers or communities in their efforts against companies, and whether it addresses global power imbalances or not. This helps us understand its impact better. Finally, this is an angle of engagement with due diligence legislation that so far has received little attention in research, as most scholars have provided theoretically-, rather than empirically informed analyses, and a focus on the meaning for those who are currently affected by corporate abuses is largely missing.

In my search for answers to the proposed research question, I collected empirical data for ten weeks in Bogotá, an important location for the operations of Teleperformance. Mainly drawing on semi-structured interviews with former employees and other relevant stakeholders, this ethnographic approach allowed me to provide an in-depth study of the situation at the call centre. While I selected the case study based on the criterion that there had been evident efforts of applying the French due diligence legislation to denounce the company's practices, when entering the field, I detached myself from this image of the situation.

By speaking to former employees of Teleperformance Colombia I first wanted to understand what the local conflict is about *for them* and how they had dealt with the problems encountered in the process.

It must be recalled that the company had been notified about their alleged in compliance with their duty of vigilance in 2019. Following this, they presented updated vigilance plans, and the legal process has not been taken any further, meaning Teleperformance has not been taken to court for systemic violations of labour rights. I therefore wanted to understand on the ground, how this process had come about and whether any, for the workers palpable, changes had materialised since.

However, I soon got to the point in which I felt that my answer would be very brief as nearly nobody on the ground seemed to know about the law, while problems at the workplace seemed to be numerous. Therefore, my focus shifted towards exploring those aspects that might offer explanations for the little significance for the affected workers, meaning both, regarding the '*architecture*' of the *Loi* that does not match the found conditions on the ground, the availability and accessibility of other strategies of resistance, and those aspects, that explain the persistence of harm.

In this thesis, I have advanced a twofold argument to illustrate the current barriers to the *Loi* explaining the limited meaning it holds for the affected workers on the ground. Firstly, the legislation, the *tool*, is designed in France, while pretending to cause an effect in a different country and cultural context. For this, an imaginary of the situation that can be potentially resolved with the instrument must be evoked. This, however, as so often in policymaking, does not necessarily match the reality that can be found on the ground and I contend, that there is a mismatch with the expectation of the situation at Teleperformance and the way the French law is set up. This has become evident in several aspects. During the fieldwork, it soon became clear, that the problem perceived by the former workers went beyond what had been captured by the initially filed formal notice, and echoed the deficiencies in working conditions at call centres in more general terms.

On the one hand, I found a pattern among the workforce at Teleperformance Colombia which seems to provide a first reason, why the emergence of collective forms of resistance is unlikely: A significant number of call centre agents come from a socioeconomic background which allows them to not economically depend too much on the job, has provided them with access to higher education and that also impacts their perception of their call-centre-time as a temporary chapter in their lives. Accordingly, there is little incentive for this group of people to invest in addressing problems regarding working conditions. Further, since the workforce is predominantly young, workers lack a frame of reference and knowledge about their rights as workers which also hampers their bargaining power in the case, they were to voice critique.

Importantly, the former also has an impact on those workers, who depend on the job and must fear losing it if they speak up since it is also harder for them to get support from their co-workers.

The second component I delineated here is the internal work structure and work culture which matters since ultimately, it is humans who act within the company and contribute to the deficiencies in the working conditions. Both aspects of the reported harm and the difficulties in addressing them can be partly explained by the hierarchical company structure, where downward pressure and acceptance are engineered through a '*stick-and-carrot approach*', especially playing with the labour market context of the country and the resulting aspirations and fears of the workers.

Yet, there is a range of creative strategies, that the call centre workers have developed, matching the context of exploitation and offering them a way to individually seek improvement to their situation. This is crucial to acknowledge, as the French law is not introduced in a void, but must be read embedded in a longer struggle. Interestingly, there is a pattern of primarily being concerned with achieving a short-term bettering of one's individual destiny rather than seeking joint ways for redress. This can partly be explained by the profile of the workers described above, and partly by the intimidation practices targeted towards those who have tried to promote unionisation or other forms of collective action. While on an individual level, those practices may not be palpable for Teleperformance, the fact, that it is many agents who practice them leads to a cumulative effect that can disrupt parts of the business.

Therefore, understanding how harm comes about, is perceived, and dealt with on a micro-scale has allowed us to illustrate the discrepancy with the by the French law envisioned scenario, which ultimately relies on legal language and, for pragmatic reasons, a collective interest for change.

Secondly, I have argued, that a lack of political will suggests a second key reason for the little local contribution of the *Loi* to an improvement of the situation of the Teleperformance workers. First, this is palpable in the fact, that the company has not been brought to court for the allegedly caused harm, despite this being the next logical step after having filed the formal notice. While the French state has avoided assuming the responsibility for enforcement in the first place, also the European NGO, that had co-filed the complaint, explained, that ultimately it was not them who decided on the steps to be taken, but that they relied on the input of their partners on the ground. However, the global trade union, in this case, has decided to promote an out-of-court-settlement with the company both on a global and on a local level. This, paired with the observation, that previously published reports on deficiencies at Teleperformance have been removed from the union's website contributes to a depoliticization of the conflict.

While the potential advantages of negotiated agreements for a palpable change on the ground must not be disregarded, this means, that ultimately, the proclaimed goal of acknowledging harm caused, challenging corporate impunity, and thereby facilitating victims access to justice, is missed. Ultimately, the company's power has remained untouched since Teleperformance has seized the opportunities offered by globalisation and adapted its offer to the Colombian workforce. Thereby they could earn an important position on the local job market which ultimately, has contributed also to a lack of political will on the side of Colombian authorities to attack their practices too much. The question becomes then to what extent the above-described mismatch between law imaginary and reality is intentional.

At the time of writing, a total of sixteen empirical cases of extraterritorial corporate abuse have been brought under the French due diligence legislation. It must be noted that all cases are unique in the sense, that they focus on different business sectors, different kinds of abuses, and different geographical areas. Also, in the discussion I have shown, how context specificities matter a lot. Yet, the relevance and implications of the presented findings beyond the labour relations at Teleperformance shall by no means be underestimated. The central arguments remain valid beyond the case study presented: first, that the conceptualisation brought about by legal measures doesn't fully grasp complex real-world situations, and second, that a genuine commitment to tackle corporate impunity through effective enforcement is still lacking. Again, to a certain degree, the latter is the decisive point in this kind of top-down value chain regulation. There is a political reason for which harm in global value chains is currently occurring as it reaffirms the prevailing global power distribution. Drawing on Ruggie ((2018) in Schilling-Vacaflor, 2021) it must be recalled that ultimately countries are economic actors and therefore it is questionable, to what extent, due diligence legislation is genuinely set up to curtail the economic power of the Global North. This becomes palpable in the fact, that voices from the sites of abuse are neglected at the moment of designing these tools and is further affirmed by the little meaning they hold later on the ground as I have illustrated in this thesis.

In conclusion, I have shown in this paper, that the French *Loi de Vigilance* has not been a suitable tool for the workers of Teleperformance Colombia in their struggle for better working conditions. While context specificities must be acknowledged, the main reasons that I have identified for this also hold true beyond the presented case. Thereby I have contributed to our understanding of the workings of due diligence legislation from the sites of caused harm in global value chains. I have demonstrated why it is crucial to bring this kind of empirical feedback to the fore to offer constructive feedback on the tool and to find ways to bypass its limitations. Growing and comparing this body of literature would allow us to derive commonalities and differences among the cases to identify patterns and factors that contribute to the meaningful engagement of affected workers or communities with due diligence measures.

Besides, further research could focus on the potential role of local advocacy and community-driven initiatives in influencing the application and outcomes of due diligence regulations. Here, also the earlier mentioned observation, that debates around similar legislation in countries in the Global South are gaining traction needs to be recalled, as here potentially different administrative challenges come to the fore. Exploring how grassroots movements, NGOs, and trade unions collaborate with and leverage legal frameworks in a more general sense, to address corporate harm could shed light on the dynamics that lead to effective change. This could include examining successful instances where local actors have managed to bridge the gap between top-down legislation and on-the-ground realities, resulting in tangible improvements for affected individuals.

References

- AFP. (2023, 27/06/2023). *Ugandans sue TotalEnergies in France for reparations over 'human rights violations'*. Retrieved 15/08/2023 from <https://www.france24.com/en/africa/20230627-ugandans-sue-totalenergies-in-france-for-reparations-over-human-rights-violations>
- Afrizal, A., Hospes, O., Berenschot, W., Dhialulhaq, A., Adriana, R., & Poetry, E. (2022). Unequal access to justice: an evaluation of RSPO's capacity to resolve palm oil conflicts in Indonesia. *Agriculture and Human Values*, 1-14.
- Aizicovici, F. (2020, 20/04/2020). Coronavirus : l'entreprise Teleperformance accusée de mauvaises conditions de travail. *Le Monde*. https://www.lemonde.fr/emploi/article/2020/04/20/coronavirus-teleperformance-accusee-de-mauvaises-conditions-de-travail_6037182_1698637.html
- Alves, P. (2021). Contact centre workers: loyalty, exit or... voice! Collective action in a Portuguese contact centre. *Socioscapes. International Journal of Societies, Politics and Cultures*, 2(2), 103-134.
- Amaya Castro, J. M. a., & Henao Zuluaga, S. (2022). El Régimen de Debida Diligencia Obligatoria: Estado del Arte e Implicaciones desde una Perspectiva Latinoamericana. *Estudios en Derecho, Comercio & Globalización*, 1.
- Araujo, S., Safradin, B., & Brito, L. (2019). Comparative Report on Labour conflicts and access to justice: the impact of alternative dispute resolution. *ETHOS consortium*.
- Aristova, E. (2021). The future of tort litigation against transnational corporations in the English courts: Is forum [non] conveniens back? *Business and Human Rights Journal*, 6(3), 399-422.
- Atzeni, M. (2021). Workers' organizations and the fetishism of the trade union form: toward new pathways for research on the labour movement? *Globalizations*, 18(8), 1349-1362.
- Auld, G., Bernstein, S., & Cashore, B. (2008). The new corporate social responsibility. *Annual review of environment and resources*, 33, 413-435.
- Beau de Loménie, T. a. C., Sandra. (2019). Vigilance Plans Reference Guidance. In (1 ed.): Sherpa.
- Bedner, A. W., & Vel, J. A. (2010). An analytical framework for empirical research on Access to Justice. *Law, Social Justice and Global Development Journal*, 15(1).
- Behn, H. (2021). Amazon, Apple & Co.: Callcenter-Angestellte sollen zu Hause videoüberwacht werden <https://www.amazon-watchblog.de/kritik/2785-amazon-callcenter-angestellte-sollen-zu-hause-videoueberwacht-werden.html>
- Berger, R. (2015). Now I see it, now I don't: Researcher's position and reflexivity in qualitative research. *Qualitative research*, 15(2), 219-234.
- Bernard, H. R. (2017). *Research methods in anthropology: Qualitative and quantitative approaches*. Rowman & Littlefield.
- Bernaz, N. (2016). *Business and human rights: history, law and policy-bridging the accountability gap*. Routledge.
- Bieler, A., & Nowak, J. (2021). Labour conflicts in the Global South: an introduction. *Globalizations*, 18(8), 1323-1334.
- Bilchitz, D. (2016). The necessity for a business and human rights treaty. *Business and Human Rights Journal*, 1(2), 203-227.
- Bonds, E., & Downey, L. (2012). Green? Technology and Ecologically Unequal Exchange: The Environmental and Social Consequences of Ecological Modernization in the World-System. *Journal of World-Systems Research*, 167-186.
- Botta, G., & Methven O'Brien, C. (2022). The Corporate Responsibility to Respect Human Rights: An Updated Status Review (2022). *Responsabilidade Social Corporativa e Governança Socioambiental: Greenwashing e Direitos Humanos [Corporate Social Responsibility and Social and Environmental Governance: Greenwashing and Human Rights](Rio de Janeiro, Lumen Iuris, 2022)*.
- Brabant, S., & Savourey, E. (2020). All Eyes on France—French Vigilance Law First Enforcement Cases (1/2) Current Cases and Trends. *Business and Human Rights Journal Blog*.

- Brem, H. (2021, 16/12/2021). French high court gives CSOs procedural win in Total Uganda oil case. *JURIST Legal News & Research Services*. <https://www.jurist.org/news/2021/12/french-high-court-rules-procedural-victory-for-civil-organizations-in-total-ugandaoil-case/>
- Bryman, A. (2016). *Social research methods*. Oxford university press.
- Business & Human Rights Resource Centre. (2019). Teleperformance's response re compliance with Duty of Vigilance Law. In.
- Business & Human Rights Resource Centre. (2020). Business & Human Rights Defenders in Colombia. In. Business & Human Rights Resource Centre.
- Castañero-Ravagli, M. (2017). Work: Conceptions of young people working in call centers in a middle-sized Colombian city. *Revista Latinoamericana de Ciencias Sociales, Niñez y Juventud*, 15(2), 1223-1236.
- Chang, H.-J. (2002). Kicking away the ladder: An unofficial history of capitalism, especially in Britain and the United States. *Challenge*, 45(5), 63-97.
- Comaroff, J. L., & Comaroff, J. (2016). Reflections on the anthropology of law, governance and sovereignty. In *Rules of Law and Laws of Ruling* (pp. 31-60). Routledge.
- Couso, J., Huneus, A., & Sieder, R. (2010). *Cultures of legality: judicialization and political activism in Latin America*. Cambridge University Press.
- Das, A. a., & Hussain, Z. (2017). Global value chains: Asymmetries, realities and risks. *Centre for WTO Studies Working Paper No, 36*.
- Dunlap, A., & Arce, M. C. (2022). 'Murderous energy' in Oaxaca, Mexico: wind factories, territorial struggle and social warfare. *The Journal of Peasant Studies*, 49(2), 455-480.
- Eckert, J., & Knöpfel, L. (2020). Legal responsibility in an entangled world. *Journal of Legal Anthropology*, 4(2), 1-16.
- Edwards, R. (1998). A critical examination of the use of interpreters in the qualitative research process. *Journal of ethnic and migration studies*, 24(1), 197-208.
- Estrada Rudas, C. (2022, 16/02/2022). Las exportaciones de servicios BPO durante 2021 ascendieron a US\$1.475 millones. *Editorial La República*. <https://www.larepublica.co/empresas/las-exportaciones-de-servicios-bpo-durante-2021-ascendieron-a-us-1-475-millones-3303864>
- European Coalition for Corporate Justice. (2018). French Corporate Duty of Vigilance Law+. In *Frequently Asked Questions*.
- European Coalition for Corporate Justice. (2022). Corporate due diligence laws and legislative proposals in Europe. In: European Coalition for Corporate Justice.
- European Coalition for Corporate Justice. (2023). *Members*. Retrieved 15/08/2023 from <https://corporatejustice.org/members/>
- Ewell, C. (2022). Reimagining the Renewable Energy Transition: The Potential for Mandatory Corporate Due Diligence to Ensure Respect for the Right to Free, Prior, and Informed Consent. *Yale J. Int'l L.*, 47, 309.
- Flemmer, R. (2018). Stuck in the middle: Indigenous interpreters and the politics of vernacularizing prior consultation in Peru. *The Journal of Latin American and Caribbean Anthropology*, 23(3), 521-540.
- Foucault, M. (1990). The history of sexuality: An introduction, volume I. *Trans. Robert Hurley*. New York: *Vintage*, 95.
- France Point de Contact Nacional. (2022, 16/12/2022). *Circonstance spécifique "Teleperformance en France et dans le monde"* <https://www.tresor.economie.gouv.fr/Institutionnel/Niveau3/Pages/6fd97010-d270-4108-8a4c-7620a05f57b0/files/abf2bdf2-0b2a-48b9-8f33-89fb57785389>
- Franz, D., Marsh, H. E., Chen, J. I., & Teo, A. R. (2019). Using Facebook for qualitative research: a brief primer. *Journal of medical Internet research*, 21(8), e13544.
- Galindo García, M. F. (2022). Sindicalismo, trabajo precarizado Call Center y pandemia por Covid-19 en Colombia durante el periodo 2017-2021.
- García Estaban, A., & Patz, C. (2021). *Suing Goliath: An analysis of civil proceedings brought against EU companies for human rights abuses and environmental harm in their global operations and*

- value chains, and key recommendations to improve access to judicial remedy. <https://corporatejustice.org/wp-content/uploads/2021/09/Suing-Goliath-FINAL.pdf>
- Gentile, A., & Tarrow, S. (2009). Charles Tilly, globalization, and labor's citizen rights. *European Political Science Review*, 1(3), 465-493.
- Gilbert, J. (2012). Corporate accountability and indigenous peoples: prospects and limitations of the US Alien Tort Claims Act. *International Journal on Minority and Group Rights*, 19(1), 25-52.
- Gill, L. (2007). Right There with You' Coca-Cola, Labor Restructuring and Political Violence in Colombia. *Critique of Anthropology*, 27(3), 235-260.
- Goodman, L. A. (1961). Snowball sampling. *The annals of mathematical statistics*, 148-170.
- Gustafsson, M. T., Schilling-Vacaflor, A., & Lenschow, A. (2022). Foreign corporate accountability: The contested institutionalization of mandatory due diligence in France and Germany. *Regulation & Governance*.
- Hart, M. t. (2007). Humour and social protest: An introduction. *International Review of Social History*, 52(S15), 1-20.
- Hastings, T. M. (2011). *A job worth doing? Reinterpreting control, resistance and everyday forms of coping with call centre work in Glasgow* [University of Glasgow].
- Hirschman, A. O. (1970). *Exit, voice, and loyalty: Responses to decline in firms, organizations, and states* (Vol. 25). Harvard university press.
- International Labour Organization. (2022). *Statistics on union membership*. Retrieved 15/08/2023 from <https://ilostat.ilo.org/topics/union-membership/>
- ITUC-CSI-IGB. (2022). *No guarantee of rights*. Retrieved 15/08/2023 from <https://survey.ituc-csi.org/Colombia.html?lang=en#tabs-3>
- Jones, G. R., & Jones, G. R. (2013). Organizational theory, design, and change.
- Kirsch, S. (2020). The Role of Law in Corporate Accountability. *Journal of Legal Anthropology*, 4(2), 100-109.
- Las Heras, J., & Ribera-Almandoz, O. (2017). When corporatism fails: trade union strategies and grassroots resistance to the Spanish economic crisis. *Journal of Labor and Society*, 20(4), 449-466.
- LeBaron, G., & Rühmkorf, A. (2017). Steering CSR through home state regulation: A comparison of the impact of the UK bribery act and modern slavery act on global supply chain governance. *Global policy*, 8, 15-28.
- LeCompte, M. D., & Goetz, J. P. (1982). Problems of reliability and validity in ethnographic research. *Review of educational research*, 52(1), 31-60.
- Lindt, A. (2020). Transnational Human Rights Litigation: A Means of Obtaining Effective Remedy Abroad? *Journal of Legal Anthropology*, 4(2), 57-77.
- Macchi, C. a., & Bright, C. (2020). Hardening soft law: the implementation of human rights due diligence requirements in domestic legislation. In *Legal Sources in Business and Human Rights* (pp. 218-247). Brill Nijhoff.
- McBarnet, D. (2009). Corporate social responsibility beyond law, through law, for law. *U. of Edinburgh School of Law Working Paper*(2009/03).
- McIntyre, N. (2023, 19/04/2023). Teleperformance signs 'Historic Agreement' allowing Colombian workers to unionise. *The Bureau of Investigative Journalism*. <https://www.thebureauinvestigates.com/stories/2023-04-19/teleperformance-signs-historic-agreement-allowing-colombian-workers-to-unionise>
- McIntyre, N., Bradbury, R., & Perrigo, B. (2022, 20/10/2022). Behind TikTok's boom: A legion of traumatised, \$10-a-day content moderators. *The Bureau of Investigative Journalism*. <https://www.thebureauinvestigates.com/stories/2022-10-20/behind-tiktoks-boom-a-legion-of-traumatised-10-a-day-content-moderators>
- Medina Atesta, C. (2020, 20/03/2020). *Trabajadores de call center obligados a trabajar en medio de la llegada del coronavirus*. Retrieved 15/08/2023 from <https://www.wradio.com.co/noticias/actualidad/trabajadores-de-call-center-obligados-a-trabajar-en-medio-de-la-llegada-del-coronavirus/20200320/nota/4024518.aspx>

- Merry, S. E. (2006). Transnational human rights and local activism: Mapping the middle. *American anthropologist*, 108(1), 38-51.
- Meslet, E. (2020, 18/05/2020). Partout dans le monde, la multinationale française Teleperformance bafoue les droits des travailleurs. Notre enquête. *l'Humanité*.
<https://www.humanite.fr/social-eco/droit-du-travail/partout-dans-le-monde-la-multinationale-francaise-teleperformance-bafoue>
- Micheli Thiri6n, J. (2007). Los call centers y los nuevos trabajos del siglo XXI. *CONfines de relaciones internacionales y ciencia pol6tica*, 3(5), 49-58.
- Montiel Mogoll6n, M., A. Herencia-Carrasco, Salvador. (2022, 01/03/2022). *¿Una norma de empresas y derechos humanos en la Constituci6n de Chile? Implicaciones para Chile y Am6rica Latina*. Agenda Estado de derecho - Konrad Adenauer Stiftung. Retrieved 15/08/2023 from <https://agendaestadodederecho.com/una-norma-de-empresas-y-derechos-humanos-en-la-constitucion-de-chile-implicaciones-para-chile-y-america-latina/>
- Moreno, M. A., Goniu, N., Moreno, P. S., & Diekema, D. (2013). Ethics of social media research: Common concerns and practical considerations. *Cyberpsychology, behavior, and social networking*, 16(9), 708-713.
- Newell, P. (2002). From responsibility to citizenship? Corporate accountability for development.
- Nowak, J. (2021). From industrial relations research to global labour studies: moving labour research beyond Eurocentrism. *Globalizations*, 18(8), 1335-1348.
- Ortner, S. B. (1995). Resistance and the problem of ethnographic refusal. *Comparative studies in society and history*, 37(1), 173-193.
- Orwell, G. (1949). 1984. Harcourt Brace Javonovich.
- Palombo, D. (2019). The duty of care of the parent company: A comparison between French law, UK precedents and the Swiss proposals. *Business and Human Rights Journal*, 4(2), 265-286.
- Pillay, R. G. (2014). The limits to self-regulation and voluntarism: from corporate social responsibility to corporate accountability. *Amicus Curiae*, 99, 10.
- Ponce, F. S. J. D. K. H. T. (2017). *Reengineering, resistance and reflexivity in Philippine call centers: challenging the victimized images of agents and neoliberalism* [Central European University]. https://www.etd.ceu.edu/2017/ponce_floramante.pdf
- Porras-Santanilla, L., & Fleischer, F. (2023). Bogotá street vendors using tutela as a sword: the symbolic power of law in practice. *Third World Quarterly*, 44(7), 1489-1505.
- Portafolio. (2013, 09/04/2013). 'En tres a6os duplicamos la operaci6n'. Portafolio Co. Retrieved 15/08/2023 from <https://www.portafolio.co/negocios/empresas/directv-busca-llegar-a-sitos-alejados-con-internet-satelital-586262>
- Publicaciones Semana S.A. (2018, 10/01/2018). Teleperformance, la compa6a que piensa en los millennials. *Publicaciones Semana S.A.* <https://www.semana.com/la-compania-teleperformance-para-los-millennials/553731/>
- Rasch, E. D., & K6hne, M. (2016). Micropolitics in resistance: The micropolitics of large-scale natural resource extraction in South East Asia. *Society & natural resources*, 29(4), 479-492.
- Rasche, A. (2009). Toward a model to compare and analyze accountability standards—The case of the UN Global Compact. *Corporate Social Responsibility and Environmental Management*, 16(4), 192-205.
- Reporterre. (2022, 06/06/2022). *Au Mexique, victoire d'une communaut6 autochtone sur EDF*. Retrieved 15/08/2023 from <https://reporterre.net/Au-Mexique-victoire-d-une-communaute-autochtone-sur-EDF>
- Rodr6guez-Labajos, B., & 6zkaynak, B. (2017). Environmental justice through the lens of mining conflicts. In (Vol. 84, pp. 245-250): Elsevier.
- Romero Guti6rrez, P. C. (2021). " Thank you for calling": experiencias de los j6venes trabajadores de call centers biling6es en la ciudad de Bogot6.
- Ruggie, J. (2008). Protect, respect and remedy: A framework for business and human rights. *Innovations: Technology| Governance| Globalization*, 3(2), 189.
- Ryan, C., Carragee, K. M., & Schwerner, C. (1998). Media, movements, and the quest for social justice.

- Sandefur, R. L. (2009). Access to justice: Classical approaches and new directions. In *Access to justice*. Emerald Group Publishing Limited.
- Savourey, E., & Brabant, S. (2021). The French law on the duty of vigilance: Theoretical and practical challenges since its adoption. *Business and Human Rights Journal*, 6(1), 141-152.
- Schilling-Vacaflor, A. (2021). Putting the French Duty of Vigilance Law in Context: Towards corporate accountability for human rights violations in the global South? *Human Rights Review*, 22(1), 109-127.
- Scott, J. C. (1985). *Weapons of the weak: Everyday forms of peasant resistance*. Yale University Press.
- Sethi, S. P., & Schepers, D. H. (2014). United Nations global compact: The promise–performance gap. *Journal of Business Ethics*, 122, 193-208.
- Sherpa. (2021). Teleperformance Case Description. In: Sherpa Association.
- Sherpa. (2022, 02/12/2022). *Deforestation in the Amazon: organisations refuse the mediation proposal in the legal action against Casino*. <https://www.asso-sherpa.org/deforestation-in-the-amazon-organisations-refuse-the-mediation-proposal-in-the-legal-action-against-casino>
- Sherpa, CCFD Terre Solidaire, & Business & Human Rights Resource Centre. (n.d.). *duty of vigilance radar*. Retrieved 15/08/2023 from <https://vigilance-plan.org/search/>
- Sherpa, & UNI Global Union. (2019, 18/07/2019). *Sherpa and UNI Global Union send formal notice to Teleperformance - calling on the world leader in call centers to strengthen workers' rights* <https://www.asso-sherpa.org/sherpa-and-uni-global-union-send-formal-notice-to-teleperformance-calling-on-the-world-leader-in-call-centers-to-strengthen-workers-rights-2>
- Sieder, R. (2020). Revisiting the Judicialization of Politics in Latin America. *Latin American Research Review*, 55(1), 159-167.
- Simons, P. (2014). Canada's enhanced CSR strategy: Human rights due diligence and access to justice for victims of extraterritorial corporate human rights abuses. *Can. Bus. LJ*, 56, 167.
- Snelson, C. L. (2016). Qualitative and mixed methods social media research: A review of the literature. *International Journal of Qualitative Methods*, 15(1), 1609406915624574.
- Soler, D. M. (2022, 13/01/2022). “Esperamos generar 5.000 nuevos puestos de trabajo este año en Teleperformance” Editorial *La República*. <https://www.larepublica.co/empresas/este-ano-en-teleperformance-esperamos-generar-5-000-nuevos-puestos-de-trabajo-3285213>
- Soto Aparicio, F. A. (2019). La rebelión de las ratas.
- Statista. (2023). *Colombia: Youth unemployment rate from 2003 to 2022* Retrieved 15/08/2023 from <https://www.statista.com/statistics/811936/youth-unemployment-rate-in-colombia/>
- Svampa, M. (2019). *Neo-extractivism in Latin America: socio-environmental conflicts, the territorial turn, and new political narratives*. Cambridge University Press.
- Syndex. (2019). *Teleperformance: Issues, context and due diligence plan for 2019*. https://uniglobalunion.org/wp-content/uploads/syndex_report_on_tp_due_diligence_plan.pdf
- Tarrow, S. (1993). Cycles of collective action: Between moments of madness and the repertoire of contention. *Social science history*, 17(2), 281-307.
- Taylor, P., & Bain, P. (2003). Call centre organizing in adversity: from Excell to Vertex. *Union Organizing*, 153-172.
- Teleperformance SE. (2021). *Vigilance Plan 2021*. <https://www.teleperformance.com/media/kgspeltk/teleperformance-vigilance-plan-2021.pdf>
- Teleperformance SE. (n.d.). *Teleperformance*. Retrieved 15/08/2023 from <https://www.teleperformance.com/en-us/>
- Teleperformance SE, & UNI Global Union. (2022). Global agreement on social responsibility. In.
- Tilly, C. (1983). Speaking your mind without elections, surveys, or social movements. *The Public Opinion Quarterly*, 47(4), 461-478.
- Tilly, C. (1995). Globalization threatens labor's rights. *International labor and working-class history*, 47, 1-23.
- Tjandra, S. (2010). Disputing labour dispute settlement: Indonesian workers' access to justice. *Law, Social Justice and Global Development Journal*, 15.

- Torres, A. C. (2022, 23/12/2022). Uno siempre cambia el trabajo de su vida (por un call center o por otra vida). 070. <https://cerosetenta.uniandes.edu.co/uno-siempre-cambia-el-trabajo-de-su-vida-por-un-call-center-o-por-otra-vida/>
- UNDP. (2005). Programming for Justice: Access for All. In. Bangkok: United Nations Development Programme.
- UNI Global Union. (2018, 12/10/2018). *Engagement des syndicats pour que Teleperformance respecte les droits humains* https://uniglobalunion.org/wp-content/uploads/teleperformance_declaration_11_countries_-_es.pdf
- UNI Global Union. (2019). *Outsourcing Injustice: Holding Teleperformance Accountable for Abuses of Its Colombian Workers*. https://media.business-humanrights.org/media/documents/files/documents/uni_tp_colombiareport_english.pdf
- UNI Global Union. (2020, 14/12/2020). *Trade Union Commitment to Ensure that Teleperformance Respects Health and Safety and Human Rights* <https://cwa-union.org/sites/default/files/20201214-teleperformance-alliance-statement.pdf>
- UNI Global Union. (2022). *Un lieu où il ne fait pas bon travailler: argumentaire pour la création d'un meilleur environnement de travail chez Teleperformance*. <https://uniglobalunion.org/wp-content/uploads/TELEPERFORMANCE-UN-LIEU-OU-IL-NE-FAIT-PAS-BON-TRAVAILLER.pdf>
- UNI Global Union. (n.d.). *About UNI Global Union*. Retrieved 15/08/2023 from <https://uniglobalunion.org/about/>
- UNI Global Union Americas. (2020). -. In C. T.-. Colombia (Ed.).
- UNI Global Union Americas, Union de trabajadores y trabajadoras de Claro y las TIC, Teleperformance SE, & Colombia, M. d. T. d. (2023, 18/04/2023). *Teleperformance - UNI Américas y Utraclaro llegaron a un acuerdo para la implementación en Colombia del acuerdo global* <https://uniglobalunion.org/wp-content/uploads/18042023-Declaracio%CC%81n-Conjunta-UNI-TP-Utraclaro.pdf>
- Unión de trabajadoras y trabajadores de Claro y las TIC. (2021, 06/08/2021). *Lxs trabajadorxs de Call Center de Teleperformance se organizan para mejorar sus condiciones laborales*. Retrieved 15/08/2023 from <https://www.utraclaroytic.com/lxs-trabajadorxs-de-call-center-de-teleperformance-se-organizan-para-mejorar-sus-condiciones-laborales/>
- United Nations. (2011). Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework. In.
- Van der Hout, F. (2022). From Colonial Extractivism to Hearting and Feelthinking: Reflections on Accompanying Women Territory Defenders in Bolivia. *Contention*, 10(1), 46-64.
- Vargas, N. (2022, 10/11/2022). MinTrabajo abrió investigación contra Teleperformance. *Editorial La República*. <https://www.larepublica.co/globoeconomia/mintrabajo-abrio-investigacion-contra-teleperformance-las-acciones-caen-mas-de-30-3486755>
- Varvastian, S., & Kalunga, F. (2020). Transnational corporate liability for environmental damage and climate change: Reassessing access to justice after Vedanta v. Lungowe. *Transnational Environmental Law*, 9(2), 323-345.
- Vogel, D. J. (2005). Is there a market for virtue?: The business case for corporate social responsibility. *California management review*, 47(4), 19-45.
- von Benda-Beckmann, K. (1981). Forum shopping and shopping forums: Dispute processing in a Minangkabau village in West Sumatra. *The Journal of legal pluralism and unofficial law*, 13(19), 117-159.
- Wallerstein, I. (1974). The Modern World-System I Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century, With a New Prologue.
- Wolanski, S. (2019). The Production of a Cause for Activism in Argentina: Labor Organization in Call Centers. *Anthropology of Work Review*, 40(1), 36-46.
- Woodcock, J. (2016). *Working the phones: Control and resistance in call centres*. Pluto Press.
- Wuttke, T., Smit, L., Parshotam, A., Ancheita, A., & Meridian, A. (2022). *Human Rights and Environmental Due Diligence in Global Value Chains: Perspectives from the Global South*.

References

- [Working Paper]. S. W. u. Politik. https://www.swp-berlin.org/publications/products/arbeitspapiere/WP02_HREDDinGlobalValueChains.pdf
- Zhao, J. (2019). Extraterritorial Attempts at Addressing Challenges to Sustainability. *Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability* (Cambridge University Press, 2019).

Appendices

Appendix A: Overview Data Collection

RQ: How have former Teleperformance Colombia workers engaged with the Loi de Vigilance in their struggle for improved working conditions?

Objective: *to scrutinise the effect of introducing a new legal forum in the context of other strategies actors have employed to defend their interests by exploring the meaning local actors attach to it*

SQ 1: How do former employees of Teleperformance Colombia describe their work experience, and what problems do they report on?

Objective: *To detach myself from the legal problem definitions I came across during the case identification and to get closer to the roots of the conflict by departing from subjective perceptions of the problems related to working at Teleperformance Colombia*

Method	Semi-structured and informal interviews	Social Media Passive Analysis	Literature research
Who/ what	Former employees of Teleperformance Colombia	Posts and comments in Facebook group "Call Center Community Colombia"	Reports/ newspaper articles on situations at Teleperformance Colombia
Purpose	to capture the problem perception of those directly affected, rather than filtered or altered through other stakeholders	to capture the interactions between those affected to triangulate hypotheses derived from interviews and reports	to supplement and triangulate findings with existing research/ investigative journalism
Topic List	Experience of working conditions Experience and impact of potential workplace abuses		

Appendices

	<p>Perception of workplace culture</p> <p>Coping mechanism and responses to potential abuses</p> <p>Perception of underlying causes and responsibility to redress</p>		
Reflection on ethics and other limitations	<p>Potential harm for participants: reliving potentially traumatic experiences.</p> <p>Fear of losing their job or other consequences at the workplace, potentially leading to omission, and compromising validity</p> <p>Measures: informed consent, confidentiality, anonymity</p>	<p>Veracity of information cannot be confirmed</p> <p>There is no consent obtained from 'participants' as I did not disclose my identity as a researcher</p>	<p>Validity compromised since stories are already translated for specific audiences</p>
Access	<p>via personal contacts to former employee at TP Colombia → then snowballing</p> <p>via Facebook group Call Center Community Colombia</p>	<p>Public group</p>	<p>UNI Global Union Website</p> <p>Business and Human Rights Resource Centre</p>
Analysis	<p>thematic analysis</p>	<p>Thematic analysis</p>	<p>thematic analysis</p>

SQ 2: What actions have (former) employees of Teleperformance Colombia, or other actors, taken to ensure respect for employee rights and with what effect?

Objective: To explore and understand the conflict dynamics, paying attention on who acts when, how and why and with what effect, as the meaning of other available strategies is decisive for the potential meaning of the Loi

Method	Semi-structured interviews and informal interviews	Semi-structured interview	Semi-structured interview	Social Media Passive Analysis	Literature research	Literature research
Who	former employees of Teleperformance Colombia	Legal advisor union Sinditecc	Representative Ministerio de Trabajo	Posts and comments in Facebook group “Call Center Community Colombia”	Mass-media outputs [Reports/ newspaper articles on situations at Teleperformance Colombia]	Corporate public domain documents [Press releases, Public relations material of Teleperformance (Colombia)]
Purpose	<p>to understand how the affected translate their grievances</p> <p>to understand who is targeted by which strategies and thus who is perceived responsible for redress</p> <p>to acknowledge the strategies workers use as acts of resistance, rather than seeing them as passive victims</p>	<p>to understand the role of the unions in the context at hand</p> <p>to contextualise the labour situation within the company in the wider Colombian context</p>	<p>to gain insights into the ongoing investigations against Teleperformance and contextualise the situation within the company in the wider Colombian context</p> <p>to understand the collaboration between government,</p>	to triangulate hypotheses derived from interviews and reports	to supplement and triangulate findings with existing research/ investigative journalism to reflect on the effect of the actions	<p>to contextualise the strategies deployed by employees and assess the (non) responses by the company to reflect on the effect of the actions</p> <p>To understand how the company translates the demands articulated and acts upon them</p>

		<p>to understand the agenda/ goals of the union in the context of the TP conflict</p> <p>to understand what the union's preferred means of contention are and why</p>	<p>company and unions</p>			
Topic List	<p>Coping mechanism and responses to potential abuses</p> <p>Power dynamics at the workplace</p> <p>Perception of underlying causes and responsibility to redress</p> <p>Perception of suitable solution</p> <p>Forms of organisation</p> <p>Kinds of actions taken (eg industrial, legal,</p>	<p>Perception of underlying causes and responsibility to redress</p> <p>Perception of suitable solution</p> <p>Role of the union and available tools</p> <p>Perception of employer response</p>	<p>Perception of underlying causes and responsibility to redress</p> <p>Role of the Colombian government</p> <p>Tools available for redress</p> <p>Collaboration with the unions UNI Global and UTRACLARO</p>			

Appendices

	<p>campaigning, role of the internet)</p> <p>Responses and actions of the employer</p>	Effect of any negotiations between union and employer				
Reflection on Ethics and other limitations	<p>Potential harm for participants: reliving potentially traumatic experiences.</p> <p>Fear of losing their job or other consequences at the workplace, potentially leading to omission, and compromising validity</p> <p>Measures: informed consent, confidentiality, anonymity</p>		<p>Ongoing investigation, therefore potentially confidential material, little that can be disclosed</p>	<p>Veracity of information cannot be confirmed</p> <p>There is no consent obtained from 'participants' as I did not disclose my identity as a researcher</p>	<p>Validity compromised since stories are already translated for specific audiences</p> <p>Measures required: reflect in analysis on context of production and intended readership</p>	<p>Measures required: reflect in analysis on context of production and intended readership</p>
Access	<p>via personal contacts to former employee at TP Colombia → then snowballing</p> <p>via Facebook group Call Center Community Colombia</p>	Facilitated by Escuela Nacional Sindical	Facilitated through Los Andes	Public group	<p>UNI Global Union Website</p> <p>Business and Human Rights Resource Centre</p> <p>UniAndes resources</p>	Teleperformance Website
Analysis	Thematic analysis	Thematic Analysis	Thematic Analysis	Thematic analysis	Thematic Analysis	Thematic Analysis

SQ 3: What structural limitations of the French Duty of Vigilance Law become visible in the example of Teleperformance Colombia?

Objective: *To pay particular attention to the role of the French law in the mapped context. To explore its use and shortcomings related to providing access to justice in the case of Teleperformance Colombia. Reflect on the wider repercussions of dd legislation as a tool for strategic litigation in the context of labour conflicts arising in global value chains.*

Method	Literature Research	Semi-structured interview(s)	Semi-structured interview(s)	Semi-structured interview(s)
Who/ What	<p>Academic articles on reception of due diligence legislation</p> <p>Mass-media outputs [Reports/ newspaper articles on situations at Teleperformance Colombia]</p>	Sinditecc representative	Representative of Business and Human Rights Resource Centre	Representative of Association Sherpa
Purpose	to embed findings in existing research and criticism of Due Diligence Legislation in general and the French Law in particular	to invite reflections on the transformative and long-term effect of the Law	to take into account previous research on the topic, contextual knowledge	to take into consideration insights from the French counterpart that filed the formal notice
Topic List		<p>Extent to which the law could lead to transformative change</p> <p>Identification of barriers in the Law (content, enforcement, procedure etc)</p> <p>Perceived relevance of the Law</p>	<p>General reflections on the implementation of the Law</p> <p>Parallels to other cases under the Law</p> <p>Own reflection on current contribution of Loi at sites of corporate abuses</p>	<p>General reflections on the implementation of the law</p> <p>Why the case never made it to court (also in the context of other cases with notices but no lawsuits)</p> <p>Parallels to other cases under the law</p>

			<p>Ideas for additional measures/ changes</p> <p>Perceived strengths and/ or traps of DD legislation and the French example in particular</p> <p>Identification of barriers in Law (content, enforcement, procedure etc)</p> <p>Perceived relevance of the Law</p>	Perceived role of Sherpa
Reflection on Ethics	<p>Validity compromised since stories are already translated for specific audiences</p> <p>Measures required: reflect in analysis on context of production and intended readership</p>			<p>Own reflection on current contribution of Loi at sites of corporate abuses</p> <p>Ideas for additional measures/ changes</p> <p>Perceived strengths and/ or traps of DD legislation and the French example in particular</p>
Access	<p>Desk research</p> <p>UNI Global Union Website</p> <p>Business and Human Rights Resource Centre</p> <p>UniAndes resources</p>	<p>Facilitated by Escuela Nacional Sindical</p>	<p>Formal affiliation with organisation during the fieldwork</p> <p>Elodie Aba, head of legal accountability project</p>	<p>To be contacted at later stage → contact person on case info sheet</p>
Analysis	Thematic analysis	Thematic analysis	Thematic analysis	Thematic analysis

Appendix B: Social Media Contents

Anonymous participant's Post

Anonymous participant
March 30 · 🌐

Hola grupo, la verdad escribo esto para desahogarme un poco, estoy viviendo una pesadilla llamada "trabajar en teleperformance" hace mas de 6 meses que trabajo para ellos y la mitad de mi pago se ha ido en tratamientos con psiquiatras y psicólogos, he tenido problemas en la piel a causa del estrés y cuando he tratado de comunicarme con los psicólogos de TP mientras estoy en mi shift nadie responde. Quisiera poder salir de ahí, pero he intentado postular en otras campañas pe... See more

👍👎👏 59 33 comments

Like Comment Share

Top comments

Esther [redacted]
Creo que lo mejor es renunciar. Ningún puesto de trabajo vale más que tu salud mental. Y nadie te dará más valor del que tú te des a ti mismo. Creo que estás en la capacidad de tomarte unos días e ir por otro empleo. Cuando se demoren en pagarte la liquidación, envíen el correo al área encargada y copíenle a todo aquel que tenga referencia a TP y también a la secretaria del trabajo, a la alcaldía, a la gobernación si es posible, a los programas de noticias. Veran como ese mismo día les responden.

Like Reply Share 19w

Nathalie [redacted]
Nivel de Ingles? 🇺🇸

Like Reply Share 19w

Luis [redacted]
Busque en otro lado y no se desgaste

Like Reply Share 19w

Juan Daniel [redacted]
Cómo todos te recomiendan, debes poner por encima tu salud mental y buscar algún trabajar en otro campo, porque si con una campaña x en tp te pasa eso, eso mismo te va a pasar en cualquier otro call center. No todos están hechos para aguantar la presión que se maneja en un call.

Like Reply Share 19w

E Rene [redacted]
Pues saigase de esa mierda y póngase a negociar en algo es trabajo honesto

Like Reply Share 19w

Andrea [redacted] Follow
Señorita o caballero esto es de no cambiar, tp ni ningún call center va a cambiar, el cambio va en ti. Es mejor que renuncies por tu paz mental

Write a public comment...

Appendix B1 Retrieved from: <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3850973315129108/>
[Accessed 25/08/2023]

Bren's Post

Bren [redacted]
April 5 · 🌐

No quiero sonar la más millennial pero no entiendo porque estos boomers están de acuerdo a que una persona tenga que aguantar que lo insulten, lo traten mal, le dañen el espíritu o lo hagan sentir como una porquería por tener que trabajar. Dejen de estar burlándose de problemas mentales serios como la depresión y/o ansiedad porque ustedes en mayoría de casos no saben como es lidiar con estos problemas y además vivir de humillaciones. Estos mismos son los supervisores que acosan y perjudican a sus agentes que pareciera que tener salud mental fuera un privilegio en Colombia.

👍👎👏 173 76 comments

Like Comment Share

Top comments

मरिक्ता [redacted]
Normi no ha visto la nena que duró 5 años en un call, ganaba mucho detesto el empleo. Ya raíz de esa experiencia hizo un cortometraje y ganó premio internacional, ahora es directora de cine gracias a la u pública

Like Reply Share 18w

मरिक्ता [redacted]
Y yo aquí con ansiedad por desempleo jajaja. Ayudaa

Like Reply Share 18w

1 Reply

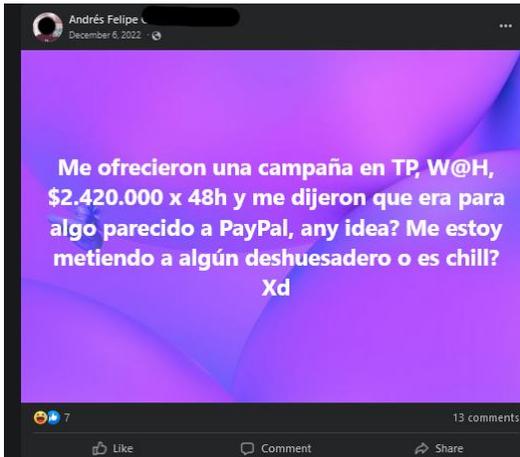
Doris Silva [redacted]
👎👎👎 pero se matan porque los insulten en inglés porque ganan 3 millones.

Like Reply Share 18w

Juan Sebastia [redacted]
En Colombia está tan romantizada la cultura de la sobreexplotación que cuando ven que alguien pide algo decente lo tachan de vago

Like Reply Share 18w

Appendix B2 Retrieved from <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3855330651360041/>
[Accessed 25/08/2023]



Appendix B3 Retrieved from <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3751253468434427/> [Last accessed 25/08/2023]



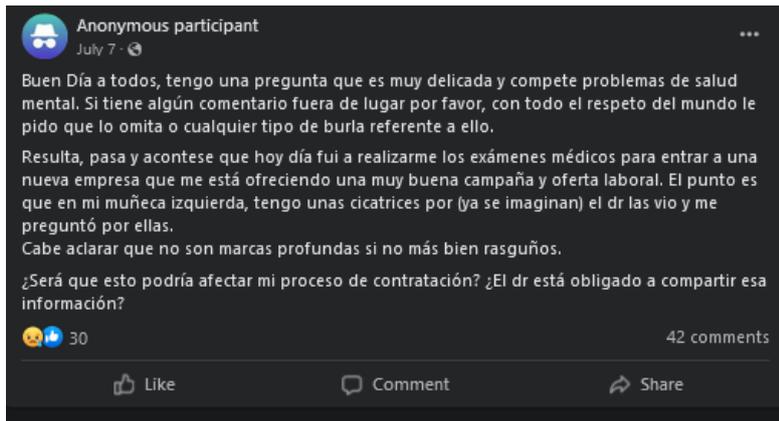
Appendix B4 Retrieved from <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3751694401723667/> [Last accessed 25/08/2023]



Appendix B5 Retrieved from <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3892980244261748/> [Last accessed 25/08/2023]



Appendix B6 Retrieved from <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3839301699629603/> [Last accessed 25/08/2023]



Appendix B7 Retrieved from <https://www.facebook.com/groups/callcentercommunitycolombia/posts/3927989157427523/> [Last accessed 25/08/2023]

Appendix C: Interview Guides

Empleadx antigux de Teleperformance Colombia

Guía de preguntas

Introducción y ambiente de trabajo

¿Cuéntame un poco sobre ti, cómo es que llegaste a trabajar en Teleperformance?

¿Cuándo fue eso?

¿Y qué tal las tareas? ¿Fue cómo te lo imaginaste? ¿Te gustaba ir al trabajo? ¿Por qué?

¿Qué cosas te molestaban?

¿Qué tal el ambiente de trabajo? ¿Tienes amigxs en el trabajo? ¿Cómo es la relación con los supervisores? Entonces dirías que es más bien horizontal/ con mucha jerarquía? ¿Y cómo se manifiesta eso en el día a día, se te ocurre algún ejemplo de pronto?

¿Y cuándo fue que te saliste de la empresa? ¿Por qué?

Percepción de problemas y estrategias para lidiar con ellos, resistencia

Bueno, ya te comenté antes que leí unos artículos según los que no pinta nada bien trabajar en TP. Hay muchas historias sobre abusos en el trabajo y muchos problemas. ¿Tú como has vivido todo ello? Bueno y tampoco hace falta que comentes nada que te incomode.

¿Cómo te hizo sentir? ¿Consideraste irte? ¿Ya te había pasado en otros trabajos? ¿Con quién hablaste? ¿Y qué te dijeron tus colegas? ¿Qué hiciste? ¿Qué hicieron? ¿Dónde? ¿Con quienes? ¿Cómo?

¿Y qué crees por qué fue posible que se abusasen así de ustedes? ¿Qué factores lo condicionaron? ¿Entonces quién o quiénes tienen la culpa?

¿Y entonces quien debe hacer algo al respecto? ¿Y quién tiene la capacidad para hacerlo?

Según tú, ¿qué se podría hacer al respecto entonces? Cómo sería una solución/ unos hechos que establecieran justicia?

¿La empresa qué hizo? ¿Quiénes? ¿Y qué crees por qué? Hubo un cambio/ fue un cambio permanente?

¿Hacías parte de algún sindicato? ¿Por qué? ¿Has visto algún efecto del trabajo del sindicato?

El caso jurídico y percepción sobre las vías legales

Mencioné al principio que vi que hubo una movida legal sobre Teleperformance en Francia en el 2019. Entonces te agradecería si me pudieras compartir un poco tu opinión sobre el papel de las vías legales para la situación en TP que me estabas describiendo.

¿Cómo es tu relación con el sistema jurídico en general? ¿Tienes confianza en la jurisdicción? ¿Por qué (no)?

¿Has escuchado del término debida diligencia? ¿Qué sabes de ello?

Ya sé que fue hace mucho tiempo, pero qué recuerdas de estas investigaciones del 18/19?

¿Recuerdas quiénes fueron los involucrados en ese proceso? ¿Y cómo funcionó la colaboración entonces? (Europa y otros lados en los que opera la empresa)

Y recuerdas si hubo algún cambio en cuanto al entorno de trabajo, reglamentos, ¿etc? ¿Me puedes dar algún ejemplo?

¿Crees que valen la pena las acciones jurídicas? ¿Por qué? ¿Qué podría cambiar un juicio en el conflicto de TP por ejemplo?

Terminar la entrevista

¿Algo más que quieras compartir al respecto de tu experiencia en TP?

Dar las gracias por tomar el tiempo para hablar conmigo y compartir sus experiencias y punto de vista

Cómo se siente después de la conversación

Estaría intersadx de recibir información sobre los resultados de la investigación

Si aún involucradx en temas parecidas: le serviría un resumen de mi trabajo/ otra forma de documentación?

¿Más preguntas sobre la investigación como tal?

Mencionó x persona antes/ sabe de alguien más con quien debería de hablar para entender mejor el transcurso del conflicto?

Representante/ miembrx de Sinditecc

Comenzar la entrevista

Tengo entendido que Sinditecc es un sindicato bastante joven, llevan unos 3 años apenas. ¿Me puedes comentar cómo y por qué se fundaron?

Bueno, también está el sindicato Utraclaro/ las TIC – qué les faltaba en el trabajo que ellos hacen? ¿Realizan actividades juntos? ¿Cuáles? Ejemplos, fotos etc. De actividades

¿Qué dirías que es el papel del sindicato? ¿Me puedes dar ejemplos del tipo de trabajos en los que has estado involucradx desde el sindicato?

Temas por abarcar

Percepción de la raíz del problema

Percepción de la responsabilidad para mitigar el problema

Opinión/ ideas para solucionar los problemas en el trabajo/ el conflicto laboral

Papel del sindicato y las herramientas a su disposición

Actividades realizadas desde Sinditecc y su efecto (documentación, volantes, fotos etc.)

Opinión sobre el comportamiento/ las respuestas por parte de la empresa

Opinión sobre y efecto de posibles negociaciones entre la empresa y el sindicato

Colaboración con otros actores sobre el terreno (también transnacionales → sherpa, uni global unión)

Presencia de trabajadores de Teleperformance en sinditecc

Qué se ha podido lograr desde la afiliación

Cuáles han sido los desafíos

Cuáles son las metas específicas relacionados con Teleperformance -> algunas actividades concretas planeadas para los próximos dos meses en las cuales podría asistir

Opinión sobre las medidas legales

Experiencia con el sistema jurídico

Conocimiento sobre la ley de vigilancia

Cambios percibidos en el lugar de trabajo tras la presentación de la nota formal

Papel del activismo legal en el contexto de los conflictos laborales. ¿Cómo se compara con otras formas del activismo?

Opinión sobre la razón por la cual no se ha demandado a la empresa

Papel de las colaboraciones transnacionales

Comparación de la situación de Teleperformance con otras entidades BPO a las que no aplica la ley francesa

Identificación de impedimentos inherentes de la ley (en cuanto a contenido, aplicación y procedimiento)

Relevancia percibida de dicha ley

¿Relevancia de las acciones jurídicas desde el sindicato? ¿Qué podría cambiar un juicio en el conflicto de TP por ejemplo?

Terminar la entrevista

¿Algo más que quiera compartir?

Dar las gracias por tomar el tiempo para hablar conmigo y compartir sus experiencias y punto de vista

Más preguntas/ inquietudes sobre la investigación como tal?

Reiterar que busco enfatizar la perspectiva de las víctimas de abusos empresariales en mi investigación – resumen y/ u otro producto de mi tesis les podría servir para el trabajo que vienen adelantando desde el sindicato

¿Otro contacto para mí?

Representante MinTrabajo

Comenzar la entrevista

¿Por qué fue que se inició la investigación contra Teleperformance? ¿Y por qué en ese momento si se estaban reportando abusos desde mucho antes?

¿Como se está llevando la investigación? (campana en redes, colaboración con sindicatos etc.)

¿Cuándo se terminará la recopilación de evidencia? Cuáles son las herramientas disponibles dependiendo de los resultados de la investigación? ¿Qué papel juega el hecho de que la empresa cabecera esté radicada en Francia?

Temas por abarcar

Percepción de la raíz del problema

Localización de la responsabilidad para mitigar el problema → el hecho de que se inició la investigación significa que el gobierno colombiano está asumiendo la responsabilidad?

Papel del gobierno colombiano y herramientas a su disposición

Conocimiento sobre la ley de debida diligencia → cuál es el efecto que tiene sobre el terreno?

Opinión por qué no se demandó a la empresa en Francia

Opinión sobre necesidades administrativas u otras en Colombia para que dicha ley pueda tener un efecto

Terminar la entrevista

- ¿Algo más que quiera compartir?
- ¿Tiene el contacto de otra persona con quien me recomendaría hablar?
- Dar las gracias por tomar el tiempo para hablar conmigo y compartir sus experiencias y punto de vista
- Más preguntas/ inquietudes sobre la investigación como tal?
- Ofrecer que se compartirá un resumen de la tesis

Representante/ miembrx CIEDH (encargada del proyecto de responsabilidad legal empresarial)

Comenzar la entrevista

¿Cuéntame un poco sobre el proyecto de responsabilidad legal empresarial? ¿De dónde nace?

¿En la página de presentación del proyecto leí que trabajan más que todo los ejes de información y capacitación y conexión– también existe un espacio para la retroalimentación en el contexto de los proyectos legislativos que se están avanzando?

Temas por abarcar

El papel de la debida diligencia en el caso de Teleperformance

Cambios observados en el lugar de trabajo tras la presentación de la nota formal

El papel del activismo legal en los conflictos laborales vis-a-vis otros mecanismos disponibles, también: riesgo de judicialización e individualización por casos

Litigios transnacionales vs acciones legales locales

El papel de las colaboraciones transnacionales

Percibidas ventajas y debilidades de la ley francesa visibles en el caso de Teleperformance

Reflexiones generales sobre el registro de aplicación de la ley

El aporte de las leyes de debida diligencia para acabar con la impunidad empresarial y facilitar el acceso a la justicia

Similitudes del caso de Teleperformance y otros casos relacionados con la misma ley

Reflexión propia sobre el aporte actual de dicha ley en los lugares de los abusos empresariales

Idea para medidas adicionales/ cambios pertinentes

Percibidas ventajas y desafíos de la debida diligencia en general y del caso francés en particular

Identificación de impedimentos inherentes de la ley (contenido, aplicación y procedimiento) → que es lo que se necesita tanto en los países de los abusos como en los países donde se adoptan las leyes?

Percibida relevancia de la ley

CIEDH: Due diligence: heard a lot that working conditions differ according to campaign – is it then the responsibility of TP or of the client?

What is the role of the centre on the monitoring website

Terminar la entrevista

- ¿Algo más que quiera compartir?
- ¿Tiene el contacto de otra persona con quien me recomendaría hablar?
- Dar las gracias por tomar el tiempo para hablar conmigo y compartir sus experiencias y punto de vista
- Más preguntas/ inquietudes sobre la investigación como tal?
- Ofrecer que se compartirá un resumen de la tesis con ella directamente (pues ya igual también se hará con Amanda)

Representante/ miembro Association Sherpa

Comenzar la entrevista

Cuéntame un poco sobre el papel que ha jugado en la aplicación de la Loi de Vigilance.

En la página web de monitoreo hay una cantidad de casos en los cuales las empresas no han publicado de vigilancia – cómo se decide en cuáles se moviliza la ley? ¿Cómo fue que se llegó a presentar la nota formal en el caso de Teleperformance? ¿De dónde sale la iniciativa normalmente?

Temas por abarcar

El papel de la debida diligencia en el caso de Teleperformance

Cambios observados en el lugar de trabajo tras la presentación de la nota formal

Papel del activismo legal en los conflictos laborales

Litigios transnacionales vs acción legal local

El papel de las colaboraciones transnacionales

Percibidas ventajas y desafíos de la ley francesa visibles en el caso de Teleperformance

Razón por la cual el caso de Teleperformance no llegó al juicio → todavía se está moviendo algo en el caso?; también: qué patrones hay en cuanto a los demás casos que cuentan con notas formales, pero no con demandas oficiales

El aporte de las leyes de debida diligencia para acabar con la impunidad empresarial y facilitar el acceso a la justicia

Reflexión general sobre el estado de aplicación de la ley

Papel de Sherpa en cuanto al monitoreo y la aplicación de la ley

Reflexión propia sobre el aporte actual de dicha ley en los lugares de los abusos empresariales

Idea para medidas adicionales/ cambios pertinentes

Percibidas ventajas y desafíos de la debida diligencia en general y del caso francés en particular

Identificación de impedimentos inherentes de la ley (contenido, aplicación y procedimiento)

Percibida relevancia de la ley

Terminar la entrevista

- ¿Algo más que quiera compartir?
- ¿Tiene el contacto de otra persona con quien me recomendaría hablar?
- Dar las gracias por tomar el tiempo para hablar conmigo y compartir sus experiencias y punto de vista
- Más preguntas/ inquietudes sobre la investigación como tal?
- Ofrecer que se compartirá un resumen de la tesis