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TÍTULO: El acceso al trabajo decente y a las TIC como derechos humanos en México: una perspectiva institucional.

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RESUMEN: En el 2011, el Estado mexicano llevó a cabo la reforma constitucional de los derechos humanos. Esto ha sido bien recibido por diferentes organizaciones internacionales de derechos humanos en todo el mundo; sin embargo, los principales desafíos de esta reforma están en cómo hacer efectivos los derechos humanos de todas las personas. Trabajando en una combinación de métodos cualitativos y cuantitativos, analizamos hasta qué punto el estado mexicano ha garantizado los derechos humanos de acceso a las Tecnologías de la Información y la Comunicación (TIC) y el trabajo decente para las personas pobres. Concluimos que el estado mexicano no ha podido garantizar esos derechos fundamentales, ya que su marco institucional no faculta a las personas para exigir acciones específicas del gobierno para garantizar sus derechos humanos de manera efectiva.

PALABRAS CLAVES: trabajo decente, TIC, transferencias monetarias condicionadas, mercado laboral, México.

TITLE: Access to decent work and ICTs as human rights in Mexico: an institutional perspective

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ABSTRACT: In 2011, the Mexican State carried out the constitutional reform of human rights. This has been welcomed by different international human rights organizations around the world. However, the main challenges of this reform are in how to make effective the human rights of all people. Working on a mixture of qualitative and quantitative methods we analyze the extent to which the Mexican state has guaranteed the human rights of access to Information and Communication Technologies (ICTs) and decent work to poor people. We conclude that the Mexican state has not been able to guarantee those fundamental rights since its institutional framework does not empower people to demand specific actions by the government to guarantee their human rights effectively.

KEY WORDS: decent work, ICTs, conditional cash transfers, labour market, Mexico.

INTRODUCTION.

In 2011, the Mexican State carried out the most important constitutional reform in recent times, the human rights reform. This reform stipulates that every person enjoys the human rights recognized in the Political Constitution of the United Mexican States – fundamental rights – and in the international treaties to which the Mexican State belongs. In addition, it forces the authorities of the Mexican government to promote, respect, protect and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility and progressivity. The reform has been welcomed by different international human rights organizations around the world.

However, the main challenges of this reform are in its fulfillment, that is, in how to make effective the human rights of all people. Taking the rights of access to information and communication technologies (ICTs) and decent work and their relation to poverty as an example, the research question which we seek to answer is ‘To what extent has the Mexican state guaranteed the human rights of

access to ICTs and decent work to poor people?’ We conclude that the Mexican state has not been able to guarantee those fundamental rights since its institutional framework does not empower people to demand specific actions by the government to guarantee their human rights effectively. This article is divided into five sections; the first part defines the human rights approach, the second explains the institutional political analysis and the emergence of the Nation-State, the third describes the methodology, in the fourth we present an analysis of the human rights of access to ICTs and decent work and their relationship to poverty, and in the final section the main conclusions are presented.

DEVELOPMENT.

The human rights approach (HRA).

The human rights approach (HRA) arose towards the end of the 1940s with the Universal Declaration of Human Rights of the United Nations (UN) (1948), initially, as a way to impose limits on abusive forms of the use of power by totalitarian and authoritarian states. This perspective provides development strategies, at both the institutional and the public policy levels, with an explicit conceptual framework to guide the various components of these strategies (Abramovich, 2006). This conceptual framework is the international human rights law.

The HRA, then, can be understood as those institutional and public policy actions which are based on international human rights standards. The goal of the HRA is to analyze inequalities and correct discriminatory practices which hinder development due to an unfair distribution of wealth (OACNUDH, 2006). In other words, the HRA is essentially aimed at empowering the poor and vulnerable groups (children, women, the elderly and indigenous people, among others) by identifying those groups which need priority or special attention for the exercise of their rights and those obliged to guarantee them (Alarcon Palacio, 2014). The recognition of rights imposes the need to establish

judicial measures which allow the right holder to appeal to an authority if the obligated party does not comply with its obligation.

The starting point of the HRA is the recognition of the dignity of every person, which requires the recognition of each of their civil, economic, political, social and cultural rights as a necessary condition for their development (to pursue the way of life that they most value). According to the UN, freedom, justice and peace in the world are based on the recognition of the intrinsic dignity and equal and inalienable rights of all members of the human family (UN, 1948). On the other hand, the International Covenant on Economic, Social and Cultural Rights (1976) stated that the ideal of a free human being cannot be realized unless people all over the world are freed from fear and misery and if the conditions which allow all people to enjoy their economic, social and cultural rights, as well as their civil and political ones, are created.

What the HRA pursues is to change the logic of the processes of elaboration of institutional and public policies. The welfare state, which was formed in developing countries during the twentieth century, was based on the principle of assistance, that is, citizens are people with particular needs which must be satisfied. Within the HRA, the point of departure is no longer the existence of people with needs which must be met, but subjects with the right to demand specific actions by the government and the state (Giménez Mercado & Valente Adame, 2016).

In this line of thinking, the focus is no longer the satisfaction of needs but the realization or fulfillment of rights. This is because rights imply responsibilities, obligations and duties from the state and its organizations as well as from people, whereas needs do not. From the welfare perspective, the person who provides the assistance or help decides all the conditions: whether or not he wants to do it, when, how and what form it will take. The HRA, on the other hand, points out the obligated and emphasizes that neither the government nor the state is in a position of superiority, but that there is equality which allows the existence of responsibilities and obligations for both of them (Cunill Grau, 2010).

The HRA therefore establishes correlative obligations whose fulfillment ignites different mechanisms which guarantee the protection of the human rights of the people. Consequently, an institutional structure which considers the multiple dimensions of the development of people (in the physical, mental, spiritual, moral, psychological and social aspects) is required. This relationship between the right(s), the correlative obligation and the mechanisms to guarantee the protection of the rights will become the conceptual framework of the institutional and public policies (Abramovich, 2006). Nonetheless, it is important to realize that the HRA is merely a guide and that states have autonomy to decide the measures to make the rights effective. They are standards which serve as a framework for the institutional and public policies which each state defines.

To shed light on the relationship between human rights, the correlative obligation and the mechanisms to guarantee the protection of those rights, we shall draw on an institutional political economy analysis. This perspective will allow us to analyze how and why the protection of human rights is determined by the political system of a society, as we shall explain next.

Institutional Political Economy analysis (IPE).

The main idea of the IPE is that the organization of a society is outlined by the institutional structure of the state which allows political elites to control access to resources, which, in turn, allows them to shape economic outcomes and the behaviour of people. In other words, the IPE enables us to clarify how and why the values of a population and the institutional structure of the state reinforce and influence each other. The pioneers of this analysis, specialists such as Max Weber (1978), Karl Polanyi (1944) and Jose Schumpeter (1991), argued that social problems such as poverty and violence are institutionally determined.

North *et al.* (2009) explained that pre-modern states were normally characterized by having charismatic leaders who agreed to respect and protect the privileges of other elites in order, on the one hand, to secure their continuation in power and, on the other, to increase their rents. However, they were forced to create an institutional framework which enabled them to delimit their rights with respect to each other in an impartial and impersonal way. As time went by, elites realized that if they extended this structure to the rest of the society, their rights would be more secure from intra-elite competition (North *et al.*, 2009). Accordingly, elites have incentives to watch over other powerful parties to prevent the manipulation of the political system which allows different social groups to access valuable resources and pursue the way of life that they desire.

To protect the rights of individuals, the state would need an impartial and impersonal institutional framework to balance the quality of public and private goods, thus reducing inequality. Once citizens see this institutional framework as permanent, it can be said that they have impersonal and impartial access to pursue their individual and group goals and that only then will citizens receive the same treatment (North *et al.*, 2009). However, when elites agree to keep on manipulating the political system, they constrain other non-elite groups from accessing valuable recourses, using force, if necessary. Now, how does the IPE help us to analyze the relationship between human rights, the correlative obligation and the mechanisms to guarantee the protection of those rights? To answer this, we need to review the emergence of the modern state.

The modern Nation-State.

The emergence of the modern state, or nation-state, as we know it today, took place between the eighteenth and nineteenth centuries when the bourgeoisie of medieval European cities opposed the form of government imposed by the feudal aristocracy in the early stages of the development of industrial capitalism (Marshall & Bottomore, 1992). The bourgeoisie demanded, among other things,

to be granted civil rights in order to have the legal capacity to acquire property, to celebrate contracts (including employment), to organize themselves and to enjoy freedom of expression and the right to justice.

O'Donnell (2001) argued that at the beginning, elites feared granting civil rights to citizens. However, they realized that these rights were indispensable for the establishment of capitalism which was beginning to be institutionalized in most of the developed countries. Civil rights were the first rights to be achieved for two main reasons: 1. the formation of the modern nation-state, during the seventeenth century, demanded legal reform to openly define a geographical boundary to increase state sovereignty, and; 2. they were essential for the creation of capitalism, and consequently, to attaining economic rights such as vocational, technical and professional training and the preparation of programmes, standards and techniques aimed at achieving full and productive employment of people, among others.

Elites were so sure that the system which they had created was invulnerable and decided to take it too far by granting rights to collective associations in order to control large groups of workers with few contracts. As a result, different social groups, especially workers, saw this as a window of opportunity to organize and fight for the equalization of their socio-economic conditions, initially demanding political rights such as universal suffrage and the right to run for a popular election post in order to be part of the decision-making process.

According to Marshall and Bottomore (1992), struggles continued in the twentieth century and expanded into campaigns for social rights such as economic welfare and social security to live the life of a civilized being according to the standards which prevailed in society. The post-war era in the second half of the twentieth century was then marked by development strategies dominated by the state, especially through the provision of social rights for poor and/or vulnerable people (Esping-Andersen, 1990; 2002). Marshall (1992) stated that at the beginning, social rights were minimal since

the common objective was to reduce poverty without altering the pattern of inequality established by the elites, which implied the need to guarantee a minimum income to all citizens in the form of a social right. Eventually, the political elite and the private sector realized that social rights were not really a threat to capitalism since that type of aid freed industry from social responsibility beyond the employment contract.

As a matter of fact, according to Polanyi (2001), the two world wars which took place during the first half of the twentieth century, involving the most powerful nations on the planet who were fighting to control the world's economy, were the result of the destruction of the European welfare state which was substituted by a free-market capitalist system at the end of the nineteenth century, initially in England, and which expanded all over Europe. The main problem with the elimination of social rights, Polanyi (2001) argued, is that there are markets which have to be constantly institutionalized because people, especially the poorest, become vulnerable to their failure, especially the labour, financial and natural resources markets. Nevertheless, the free-market capitalist system was established because the British government intervened in favour of the private sector elites to open the economy to their benefit, arguing that the industrial revolution (which then meant steam engines), which had just started, required it.

In Latin America, on the other hand, the notion of rights was formed in the early 1900s, and differed from that of developed countries, because the first rights granted were social rights intended to keep social groups under control along with economic protection measures, such as the import substitution model (IS), and then political and civil rights. Among the protection measures there were social insurance and the protection of formal employment (industrial and public), leaving informal sector workers without protection (Barrientos, 2004; Moreno-Brid et al., 2009). In addition, there was an aspiration, although it was never achieved, to provide education and health services in a universal way to improve the human capital of the workforce.

As a result, the twentieth century saw the birth of the so-called Welfare State – in different forms and at different levels – in most of the developing countries and its re-birth, as well at diverse levels and degrees, in most of the developed countries. In Latin America, the Welfare State was to some extent successful. According to Altimir (1988), employment in urban zones grew approximately 4% per year between the 1940s-1970s. However, the opening of the economy during the 1980s and 1990s, to allow the markets to adjust on their own dynamics to the new world order, meant a decline of the social rights which had been achieved in the first half of the twentieth century.

Generally speaking, the Mexican state withdrew, as did most of the Latin American countries, from coordinating the economy by slashing social spending, privatizing state-run corporations and deregulating the financial and commercial systems, among other important changes (Burnell, 2008). This would bring about macroeconomic stability and employment generation (Damián, 2019). Ironically, although macro-economic stability had been more or less achieved, the living conditions of the people during this period were particularly aggravated by cuts in social spending which brought about a wave of protectionist (leftist) governments which have taken over in many countries of the region in the last decade.¹ In this context, is the Mexican state in a position to comply with human rights reform? Has the Mexican state been able to guarantee the rights of access to ICTs and decent work to poor people?

Methodology.

In order to answer our research question, we designed a methodology based on a mixture of quantitative and qualitative methods. For the first part of the study, we conducted around thirty semi-structured face-to-face interviews with different actors involved in our research problem comprising public servants, private sector managers and two focus groups of poor people who were aged between

¹ In Mexico, the first left-wing political party that took over was *Morena* in July 2018.

eighteen and twenty-nine years and had already achieved the high-school education level. This information allowed us to understand better the context and the life of the poor people to which we applied our survey. We triangulated that information with a documentary analysis of papers related to our object of study including public documents, books, conference proceedings and specialist journals. Finally, with all that information we constructed a survey and built a sample of poor people to which we applied it.

As explained above, the HRA is essentially aimed at empowering the poor and vulnerable groups. Accordingly, to build our sample, we chose the *Prospera* programme, because it has been the most important anti-poverty policy in Mexico since the mid-1990s. Generally speaking, this programme provided an income to the poorest, so that they could finance the education and health of their children (it covered all the education levels from primary to the university level and even the newly born) in order that they developed skills which would, eventually, enable them to continue obtaining an income in the labor market (Levy, 1991)².

Our sample consisted of former beneficiaries of the *Prospera* programme who were between the ages of 18 and 29 and who had finished high school because, on the one hand, high school level and eighteen years of age are the minimum education level and age required to enter formal employment in Mexico. On the other hand, it was important to have a homogeneous age range in the sample in order to be able to make generalizations on a secure methodological basis.

We chose to study the human rights of access to ICTs and decent work and their relationship to poverty because, on the one hand, as argued above, the purpose of the *Prospera* programme was to provide an income to the poorest, so that they could finance the education and health of their children, so that they might develop skills which would eventually enable them to continue obtaining an income

² The first programme of this kind was implemented in 1997, called *Progesa*, later in 2001 the programme was renamed *Oportunidades* and finally in 2013 it was entitled *Prospera*; at the beginning of 2019, the programme was renamed *Becas Benito Juarez* focusing only in the educational component.

in the labor market. On the other hand, today's society, so called information and knowledge society (Crovi, 2008), requires importantly having access to ICTs in order to develop the necessary skills to obtain a sustainable income in the labour market.

We conducted our fieldwork in the state of Aguascalientes because its capital city, also named Aguascalientes, concentrates about 70% of the total population of the state, which gave us the opportunity to analyze an important urban context where, due to the high levels of informal labour that exist in Mexico, income generation becomes the main concern of state policy with respect to employment. Moreover, urban contexts are the ones in which it is more important for people to develop digital skills to join the labour market since, normally, multinational corporations (MNCs) and big enterprises look for important urban cities to offer and develop their products. Accordingly, Aguascalientes is one of the states where the industrial sector, especially the automotive industry, has grown the most in Mexico in recent years (INEGI, 2018).

To build our sample, we used the stratified random sampling method in which sample units are selected because they have specific characteristics which allow an understanding of the essential themes of the research (Yin, 2009; Hancké, 2010). After testing the questionnaire with a small group of ex-beneficiaries, we proceeded to apply it. For that, we hired and trained pollsters. We needed six weeks to complete our sample. The people in charge of the *Prospera* programme helped us to locate the ex-beneficiaries around the city. Between 2001 and 2017, *Prospera* gave out 6,071 scholarships to people who were enrolled at least in the third year of high-school in Aguascalientes; our sample consisted of 362 ex-recipients³.

³ To build the sample, we used the common confidence level of 95% and 5% of sampling error used in social science research. The degree of variability was also the general standard used in surveys of social sciences: 50%-50% (Dillman & Salant, 1994).

The human rights of access to ICTs and decent work of poor people.

The main advantage of analyzing poverty from a human rights perspective lies in the fact that it allows us to go beyond the minimal definitions of poverty which relate it to monetary terms (Townsend, 1979; World Bank, 1990; Lister, 2004). From the human rights perspective, poverty is no longer a conceptual abstraction but a material situation brought about by the lack of protection of particular rights by the state. In other words, the human rights perspective enables us to define poverty legally as a situation which violates human rights because of the wrong functioning of the institutional structure and public policies of the state, as we shall see next.

Access to decent work.

Civil, political, economic, social and cultural rights were recognized as human rights in the Universal Human Rights Declaration (1948). However, they were divided into two international instruments in 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The reason for this was simple; states would accept civil and political rights being enforced under HRA, but economic, social and cultural rights were seen as merely aspirational goals (Neves-Silva *et al.*, 2019). Accordingly, the obligations of the state parties in both instruments are different. For civil and political rights, the duty of the state is to ensure to all individuals the rights recognized in the Covenant. For the economic, social and cultural rights, on the other hand, state parties accept having to take steps both independently and with international aid in order to fulfill progressively the realization of these rights. Consequently, two different supervisory committees were later established for each Covenant which oversee that civil and political rights protect individuals' autonomy against arbitrary action by the authorities, whereas economic, social and cultural rights protect this autonomy against social insecurity. The division of these rights has been assuaged by different means over time; for instance, the supervisory

committee of the ICESCR advised state parties to ensure the satisfaction of the essential levels of each of the economic, social and cultural rights (1990). Similarly, subsequent international instruments such as the Convention on the Rights of the Child (1989) and the Convention on the Rights of Persons with Disabilities (2016) have inter-mixed both sets of rights (Neves-Silva *et al.*, 2019).

Mexico was one of the few countries which, since 1917 when the Mexican state was born, has recognized the right to work as a fundamental right in Article 123 of the constitution. However, the international and national private sectors influenced the enactment of an employment law (LFT) in 1931 and a new LFT in 1970 in order to counterbalance the occupational rights recognized in the constitution because those rights harmed their economic interests (Bensusán, 2006). In 2012, the first thorough reform of LFT since 1970 was enacted. The reform was intended, *inter alia*, to establish the definition of decent work according to the principles of human rights.

Article 123 of the Political Constitution of the United Mexican States indicates that “Everyone has the right to decent and socially useful work; to this end, the creation of jobs and the social organization of work will be promoted, in accordance with the law” (CPEUM, Art. 123, my translation). Accordingly, decent work is understood as that in which the human dignity of the worker is fully respected; there is no discrimination due to ethnic or national origin, gender, age, disability, social condition, health conditions, religion, migratory status, opinions, sexual preferences or marital status; there is access to social security and a remunerative salary is received; continuous training is received to increase productivity with shared benefits, and optimal safety and hygiene conditions are in place to prevent employment risks (Anker *et al.*, 2003; CONEVAL, 2018). Decent work also includes unrestricted respect for the collective rights of workers, such as freedom of association, autonomy, the right to strike and collective bargaining (LFT, Art. 2).

In spite of all these advances, however, labour rights in Mexico are far from being made effective (Bensusán, 2016). Mosley (2011) argued that a key factor in that regard is the way in which countries manage to adjust to the global economy. According to her, countries whose economy depends on importing commodities and technology in order to export, as in the case of Mexico, end up violating labour rights. This is because MNCs move their factories to these developing countries seeking low labour costs which bring about the erosion of labour rights all along the production chain.

Likewise, the problem is that in those developing countries, labour policies are normally subordinated to macroeconomic policy goals and competition strategies, which constrains the possibility of making labour rights effective (Bensusán, 2016). Unlike the previous employment law, the reform of 2012 in Mexico covered outsourcing but, at the same time, introduced new flexible ways of hiring and firing (probationary and initial training contracts) which are being used by private sector employers to hire workers for up to six months, being able to end the labour relationship whenever they want.

Table 1. Type of contract

What do you do?	Type of contract	Type of organization					Total
		Industrial sector	Service	Government	Student	Unemployed	
Student	None				124		124
Employee	Undefined	15	25	0			40
	Temporary	6	21	2			29
	No contract	0	60	0			60
	Business	0	2	0			2
Total		21	108	2			131
Study and work	Undefined	3	2				5
	Temporary	0	14				14
	No contract	8	34				42
	Business	0	3				3
Total		11	53				64
NINI	Unemployed					43	43
Total		32	161	2	124	43	362

Source: Author.

As a matter of fact, as shown in Table 1, of the 362 poor interviewees, 54% (195) were either working or working and studying at the same time. Of these 195 interviewees, 102 (52%) did not have a contract, 43 (22%) had a temporary contract, 5 (3%) had their own business and only 45 (23%) had an undefined or stable contract. If we take a look at those who were only working, the situation was very similar. Of the 131 people who were involved only in work, 46% (60) did not have a contract, 22% (29) had a temporary contract and only 31% (40) had an undefined or stable contract and 2 (1%) had a business of some kind.

Table 2. Hours of work per week.

What do you do?	Hours of work per week	Do you get paid for your extra work hours?				Total
		Yes	No	Student	Unemployed	
Student				124		124
Employee	48 or less	46	65			61
	50	0	7			7
	52	0	1			1
	55	1	1			2
	56	0	2			2
	60	0	4			4
	66	0	2			2
	72	0	2			2
	Total		47	84		
Study and work	48 or less	19	45			64
NINI					43	43
	Total	66	129	124	43	362

Source: Author.

A similar situation is seen with the interviewees' weekly working hours. According to the federal employment law in Mexico, the maximum working week is 48 hours and payment for over-time work must be double the basic salary. However, as shown in Table 2, of the 131 poor interviewees who were working only, at the time of the research, 20 (15%) of them worked more than the 48 hours allowed by the law and most of them did not receive the overtime payment stipulated by the law. Furthermore, most of those who worked fewer than 48 hours stated that they regularly worked extra time but, like those who were working and studying, they did not receive any additional payment. The situation of collective organization in Mexico is even worse. As previously argued, the right to collective organization emerged for the first time in England and enabled workers to struggle for political and social rights which eventually enabled them to improve their labour conditions. In Mexico, this right was also one of the first rights recognized in the Constitution since 1917 but, unlike in England, it was recognized, as argued above, to control social groups (Barrientos, 2004). Moreover, Mexico is the only country in Central America which has not ratified the Right to Organize and Collective Bargaining Convention, 1949 No. 98 (Bensusán, 2016).

The problem is that since the opening of the economy in the 1980s, collective organization has also been subordinated in order to increase the competitiveness of the private sector. Actually, the unionized workforce fell from around 30% in 1984 to 10% in 2010 (Ruíz, 2009). Accordingly, among our interviewees, we identified some problems related to their collective organization rights. As shown in Table 3, of the 362 interviewees, 195 (54%) had a job, 123 (34%) were students and the remaining 44 (12%) were unemployed. Of the 195 who were employed, only 23 (12%) had access to a union and the remaining 172 (88%) did not.

Table 3. Access to Unions						
	Economic Sector					Total
	Industrial	Service	Government	Student	Unemployed	
YES	12	11	0	0	0	23
NO	20	150	2	0	0	172
Student	0	0	0	124	0	124
Unemployed	0	0	0	0	43	43
Total	32	161	2	124	43	362
Source: Author						

We also identified some problems related to equality and non-discrimination which is an important feature of the right to decent work in Mexico, as seen before. The term ‘human rights’ was used for the first time in 1948 in the Universal Declaration of Human Rights in order to include women since in previous documents such as the Declaration of the Rights of Man and of the Citizen of 1789 the title used the male term *Man* only. The main purpose of the change was to make it clear that both women and men are born free and equal in dignity and rights. However, the participation of women in the labour market, as shown in Table 4, is clearly unequal if we compare it with that of men, particularly if we compare their salaries.

Table 4. What do you do?

		Student	Employee		Study and work	NINI	Total
Female	Monthly wage (Mexican pesos)	Less than 1500	0	5	18	2	25
		From 1500 to 3000	0	9	17	0	26
		From 3000 to 5000	0	30	8	1	39
		From 5000 to 10000	0	13	0	0	13
		Student	91	0	0	0	91
		Unemployed	0	0	0	33	33
	Total		91	57	43	35	227
Male	Monthly wage	Less than 1500	0	5	3	0	8
		From 1500 to 3000	0	13	12	0	25
		From 3000 to 5000	0	27	6	0	33
		From 5000 to 10000	0	29	0	0	29
		Student	31	0	0	0	31
		Unemployed	1	0	0	8	9
	Total		32	74	21	8	135
Total			123	131	64	44	362

Source: Author

As we can see in Table 4, of the 362 interviewees, 227 (62.7%) were female and 135 (37.3%) were male. Accordingly, there were more women unemployed (33) than men (8). A positive effect of the programme is that, at the time we carried out the research, there were three times more women than

men studying for a BA because the scholarships used to be higher for women than for men in order to increase gender equality. However, comparison of the salaries of women and men shows that most of the working women earned less than 5,000 Mexican pesos, whereas most of the working men earned between 3,000 and 10,000 Mexican pesos.

Table 5. Training and social security

What do you do?	Access to training		Access to social security services				Total
			Yes	No	Student	Unemployed	
Student	Access to training	No			124		124
Employee	Access to training	Yes	17	2			19
		No	11	64			75
		Yes, but not related to ICTs	35	2			37
Total			63	68			131
Study and work	Access to training	Yes	7	3			10
		No	7	35			42
		Yes, but not related to ICTs	2	10			12
	Total		16	48			64
NINI	Access to training	No				43	43
Total			79	116	124	43	362

Source: Author.

Finally, in terms of training and social security, Table 5 shows that of all the interviewees who were either working or working and studying (195), only 40% (78) of them received some kind of training in their jobs and the remaining 60% (117) did not. The situation of access to social security is similar. The right to social security is recognized in Article 123 of the Mexican Constitution for salaried workers only, but the protocol of San Salvador, signed by Mexico, extends this right to the entire population (Belmont & Parra, 2017; Damián, 2019). However, as Table 5 shows, of all the interviewees who were either working or working and studying (195), only 41% of them had access to social security and the remaining 59% (116) did not.

Access to ICTs.

Throughout the nineteenth and twentieth centuries, we had the opportunity to testify the important role which technological revolutions – steel, steam engines, electricity, oil-related technology – played in the economic development of developed and developing countries. The introduction of ICTs in the early 1970s is considered to be a technological revolution similar to the steam engine or electricity because it impacted not only on the way of doing business, but also changed people's everyday routines (Pérez, 1983). Accordingly, during the 1980s most of the Latin American countries opened their economy with the aim of both: adjusting to the new global conditions and, 2. To spread the advantages of the new technological revolution which had just started all over the world, the ICTs revolution (Qiu & Cantwell, 2016).

As a result, access to ICTs has become crucial as an element of the so-called knowledge and information society (Crovi, 2008; Romaní, 2009). Actually, the relevance of access to and the adoption and appropriation of ICTs, especially the internet, brought about that the United Nations Organization (ONU) recognized access to the internet as a human right in 2011 (Peña, 2019). Moreover, Article 15 of the ICESCR considers it as a social right and specifies that states parties

recognize the right of every person to enjoy the benefits of scientific progress and its applications. Consequently, countries all over the world started to incorporate it into their legal systems. The most advanced country in the world in making this right effective is Finland, which has established that every Finnish citizen has the right to an internet connection of at least 100 Mb/s, among other advances (Carbonell & Carbonell, 2014).

Following its tradition, Mexico is the most advanced country in Latin America as far as the formal recognition of access to ICTs as a fundamental and human right is concerned (Miranda, 2016). In 2013, a constitutional reform was carried out in order to decrease the digital divide in Mexico in comparison with most of the developed countries. The reform consisted basically of indicating, in Article 6 of the Mexican Constitution, that the state would guarantee the right of access to ICTs as well as to broadcasting and telecommunications services, including broadband and the internet.⁴ The aim is to enable Mexican people to integrate into the information and knowledge society. The transitional articles of the Constitution also specified that by the end of 2018, the state would extend internet access with a speed in accordance with the average registered in the OECD countries, to reach 70% of all households and 85% of all SMEs at the national level (SEGOB, 2013).

However, according to the national survey of the availability and use of ICTs in households (ENDUTIH) which is carried out annually by the National Institute of Statistics and Geography (INEGI), by the end of 2018, internet access had reached only 52.9% of Mexican households. The case of the SMEs is worse since most of them are informal enterprises which are not registered with the government. The lack of access to internet connection in the remaining households is explained, to a great extent, by the lack of people's economic resources to contract the service (INEGI, 2018). Accordingly, Mexico's prices of fixed broadband internet are still above the average prices in the

⁴ In Mexico ICTs include computer equipment, software, printing devices, infrastructure and services that are used to store, process, convert, protect, transfer and retrieve information, data, voice, images and video (SEFUPU, 2018).

OECD countries even though mobile broadband has decreased in the last few years (Ayala *et al.*, 2017; OECD, 2017).

The poor population is the one which is being left aside. The consequences are, for instance, that people find it difficult to use the internet to support their education or to self-study since the fixed broadband internet is the one mainly used for that purpose, whereas mobile broadband is mainly used for social networks or entertainment (INEGI, 2018).

Table 6. INTERNET AT HOME							
		If you have the internet at home, what do you use it for?					Total
		School homework	Social Networks	I do not have internet	Online payments	Other	
What do you do?	Student	76	10	38	0	0	124
	Work	37	55	29	3	7	131
	Study and Work	44	0	20	0	0	64
	NINI	11	11	21	0	0	43
Total		168 (46%)	76 (21%)	108 (30%)	3 (1%)	7 (2%)	362
Source: Author							

Table 6 shows that 46% (168) of the interviewees used the internet to do their school homework, mainly students, and even those who were working stated that as their main use of it. Remarkably, 30% (108) of the interviewees did not have the internet at home and when we asked them why, as shown in Table 2, 90% (97) of them stated that it was because they could not afford it, even those who were working or working and studying. The results show that the right to access the broadband internet in Aguascalientes for around 30% of the people who had the characteristics which we chose for our sample is not being protected by the state. This does not take into account the degree of adoption and/or appropriation that the poor have of the ICTs; that is, the extent to which the poor use ICTs as part of everyday life to solve their political, economic or social problems.

Table 7. If you do not have the internet at home, how do you connect?					
How do you connect?		Why do not you have the internet at home?			Total
		I cannot afford it	There is no service	I do not need it	
Female	Cyber-café	32	6	0	38
	School	5	1	1	7
	Mexico-Connected	2	0	0	2
	Other	27	1	1	29
	Total	66	8	2	76
Male	Cyber-café	11	1		12
	School	1	0		1
	Other	19	0		19
	Total	31	1		32
	Total	97 (90%)	9 (8%)	2 (2%)	108

Source: Author

The situation is similar when we take into account other essential ICTs such as computers, smartphones and even digital skills. According to the ITU (2017), mobile telephony is increasingly pervasive and now leads the provision of telecommunication services all over the world. As Table 8 shows, most of our interviewees owned at least one and only 34 (9%) did not. This is a very important advance in terms of access to ICTs. However, the use of the smartphone by the poor was merely for communicative purposes with social networks such as Facebook, WhatsApp and Instagram. They also used it for school homework, especially to access the internet through their cellular data, because

of the lack of access to the internet at home since they could not afford it, as shown in Tables 1 and 2 above, which is more expensive for them in the long run.

Table 8. If you have a smartphone, what do you use it for?						
		If you have a smartphone, what do you use it for?				Total
		School Homework	Social networks	I do not have one	Other	
What do you do?	Student	71	42	10	1	124
	Employee	12	99	15	5	131
	Study and work	35	24	4	1	64
	NINI	2	36	5	0	43
Total		120	201	34	7	362
Source: Author.						

In the case of computers, ITU (2017) reported that in Mexico the percentage of households with a computer was 45%, whereas in Brazil, Chile and Costa Rica it was 51%, 63.9% and 51.7% respectively. Accordingly, Table 9 shows that almost half of our interviewees (172-48%) had no access to one whereas the rest (190-52%) did have access. This is a very high percentage of poor people without access if we consider, as explained above, that we carried out our fieldwork in an important urban context where it is more common to have access to computers. Likewise, this situation turns out to be even worse if we take into account the age of the interviewees, since most of them were young people aged between 18 and 29 who were at the start of their professional careers.

Table 9. If you have computer at home, what do you use it for?

		What do you use your computer for?					Total
		School Homework	For my job	For my business	I do not have a computer	Other	
What do you do?	Student	82	1	0	41	0	124
	Employee	28	10	1	77	15	131
	Study and work	40	0	0	24	0	64
	NINI	9	0	0	30	4	43
Total		159	11	1	172	19	362

Source: Author.

Access to digital skills is also very important to be able to succeed in today's society. The problem is that although in recent years there have been some governmental efforts to close the digital divide created by the introduction of the ICTs in the early 1990s (e-Mexico, agenda digital.mx, universal digital inclusion policy), these have been unfruitful because they are based on theoretical approaches developed by international organizations and not on empirical data (*see*; World Bank, 2016; UNESCO e ITU, 2017; BID, 2018). As shown in Table 10, the main digital skills which the interviewees had were basic ones (Microsoft Office and internet navigation), whereas very few of them knew about programming or specialized software related to the new trends in information technologies, such as the Internet of things, cloud computing, big data analytics and artificial intelligence.

Table 10. Digital skills.

Gender	What are your main digital skills?	What has impeded you from having more digital skills?				Total
		Expensive	I do not know where I can acquire them	Complicated to learn	Other	
Female	Office and internet	48	33	24	79	184
	Programming	1	2	3	8	14
	Specialized software	1	6	0	11	18
	None	6	0	2	3	11
Total		56	41	29	101	227
Male	Office and internet	24	21	7	36	88
	Programming	5	2	0	9	16
	Specialized software	4	0	0	3	7
	None	6	2	6	10	24
Total		39	25	13	58	135
Total		95	66	42	159	362

Source: Author.

CONCLUSIONS.

The research question which we have addressed in this paper is ‘To what extent has the Mexican state guaranteed the human rights of access to ICTs and decent work to poor people?’ We have shown that although the Mexican state has made considerable efforts to guarantee some human rights to vulnerable people, specifically poor people, namely access to ICTs and decent work, the efforts so

far have been mainly in the formal arena, recognizing social rights as human rights in the Mexican Constitution and legal regulations, but the human rights of access to ICTs and decent work are still far from being guaranteed effectively.

For instance, not only have we shown the different dimensions of decent work which the Mexican state has to guarantee in order to be able to fulfill that right, but also throughout the paper we have shown the great importance of guaranteeing access to ICTs so that poor people can join the labour market. We have also demonstrated that unless the right of access to ICTs is ensured, the poor will not be able to integrate in today's society, thus damaging their life opportunities. We have exposed as well some of the practices used in the labour market which work regressively against some of the labour rights of the people we interviewed during our fieldwork.

What is more, the welfare state, which was formed in developing countries during the twentieth century, was based on the principle of assistance, that is, citizens are people with particular needs which must be satisfied. Within the HRA, the point of departure is no longer the existence of people with needs which must be met, but subjects with the right to demand specific actions by the government and the state. Going against the HRA, the CCT's programmes such as *Prospera* were based on cash transfers conditional upon a change in the behaviour of the poor. In this line of thinking, in order to guarantee the fundamental rights of the population, the current government would not only need to ensure the universalism of social policies, but also to adjust its institutional structure to empower people to demand specific actions by the government to guarantee their human rights effectively.

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