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THE LABOR SECTOR AND U.S. FOREIGN ASSISTANCE GOALS

HONDURAS LABOR SECTOR ASSESSMENT



AUGUST 2008

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The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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ACRONYMS

ACILS	American Center for International Labor Solidarity
ADR	Alternative Dispute Resolution
AIFLD	American Institute for Free Labor Development
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
AHM	<i>Asociación Hondureña de Maquiladores</i> (Honduran Association of Manufacturers)
BCH	<i>Banco Central de Honduras</i> (Central Bank of Honduras)
CAFTA-DR	Central America-Dominican Republic-United States Free Trade Agreement
CBA	Collective Bargaining Agreement
CDM	<i>Centro de Derechos de la Mujer</i> (Women’s Rights Center)
CGT	<i>Central General de Trabajadores</i> (General Workers’ Central)
CIMCAW	Continuous Improvement for Central American Workers Project (<i>Mejoramiento Continuo en la Maquila</i> , or MECOMAQ)
CLS	Core Labor Standards
CODEMUH	<i>Colectiva de Mujeres Hondureñas</i> (Honduran Women’s Collective)
COHEP	<i>Consejo Hondureño de la Empresa Privada</i> (Honduran Private Enterprise Council)
CONADESH	<i>Comisionado Nacional de los Derechos Humanos de Honduras</i> (Honduras National Human Rights Commission)
COSIBAH	<i>Coordinadora de Sindicatos Bananeros y Agroindustriales de Honduras</i> (Coordinator of Honduran Banana and Agro-Industrial Unions)
CSO	Civil society organizations
CTH	<i>Confederación de Trabajadores de Honduras</i> (Workers Confederation of Honduras)
CUTH	<i>Confederación Unitaria de Trabajadores de Honduras</i> (Unitary Workers Confederation of Honduras)
DCHA	Democracy, Conflict, and Humanitarian Assistance Bureau of USAID
DHS	Department of Homeland Security
DPLF	Due Process of Law Foundation
DRL	U.S. Department of State, Bureau for Democracy, Human Rights, and Labor
EG	Economic growth
EGAT	Economic Growth, Agriculture, and Trade Bureau of USAID
EMIH	<i>Equipo de Monitoreo Independiente de Honduras</i> (Independent Monitoring Team of Honduras)
FAF	Foreign Assistance Framework
FESITRATEMASH	<i>Federación de los Sindicatos de Trabajadores Textiles, Maquila y Similares de Honduras</i> (Federation of Textile, Maquila, and Related Workers of Honduras)
FIDE	<i>Fundación para la Inversión y Desarrollo de Exportaciones</i> (Foundation for Investment and Export Development)
FOA	Freedom of Association
FOPRIDEH	<i>Federación de Organizaciones Para el Desarrollo de Honduras</i> (Federation of Development Organizations of Honduras)
GDP	Gross domestic product
GFI	Global Fairness Initiative
GSP	Generalized system of preferences

IADB	Inter-American Development Bank
ICFTU	International Confederation of Free Trade Unions
IFPRI	International Food Policy Research Institute
IHSS	Honduran Institute of Social Security
ILO	International Labor Organization
ILO CEACR	International Labor Organization Committee of Experts on the Application of Conventions and Recommendations
INAM	<i>Instituto Nacional de la Mujer de Honduras</i> (National Institute for Honduran Women)
INE	<i>Instituto Nacional de Estadística Honduras</i> (Honduras National Statistics Institute)
INFHA	<i>Instituto Hondureño de la Niñez y la Familia</i> (Honduran Institute for Children and Families)
INFOP	<i>Instituto Nacional de Formación Profesional</i> (National Institute for Professional Training)
IQC	Indefinite quantity contract
ITUC	International Trade Union Confederation
MCC	Millennium Challenge Corporation
NGO	Nongovernmental Organization
NLC	National Labor Committee
OCAVI	<i>Observatorio Centroamericano sobre Violencia</i> (Central American Observatory on Violence)
PNED	<i>Plan Nacional para la generación de Empleo Digno</i> (National Plan for Decent Work)
RIT	<i>Régimen de Importación Temporal</i> (Temporary Import Law)
ROL	Rule of Law
SAI	Social Accountability International
SIERP	<i>Sistema de Información de la Estrategia para la Reducción de la Pobreza</i> (Poverty Reduction Strategy Information System)
SIREMAH	<i>Sindicato Reformado de Marineros de Honduras</i> (Reformed Union of Honduran Mariners)
SITRAENP	<i>Sindicato de Trabajadores de la Empresa Nacional Portuaria</i> (Workers Union of the National Port Authority)
STIBYS	<i>Sindicato de Trabajadores de la Industria de la Bebida y Similares</i>
USAID	United States Agency for International Development
USDOL	United States Department of Labor
USG	United States Government
WOLA	Washington Office on Latin America
WTO	World Trade Organization
ZIP	<i>Regimen de Zonas Industriales de Procesamiento para la Exportación</i> (Industrial Export Processing Zones Law)
ZOLI	<i>Regimen de Zonas Libres</i> (Free Trade Zone Law)

EXECUTIVE SUMMARY

1.0 Principal Development Challenges Facing Honduras

Honduras is one of six countries to participate in the U.S.-Central America-Dominican Republic Free Trade Agreement. How can Honduras – a lower middle-income and predominantly rural country, the second poorest of the CAFTA-DR countries, one whose export-oriented economy (*maquilas*, agriculture, fisheries) is largely concentrated along the northern coast, and a country that now generates one-fourth of its GDP through labor exports and the remittances returned by those migrants – stimulate its economy to provide new livelihood opportunities for its people and at the same time promote good democratic governance that allows a broad cross-section of Hondurans to participate in local and national decision-making processes?

Despite adequate laws and institutional structures, democratic governance is still problematic, for several historical and institutional reasons. First, political parties are plagued by numerous problematic practices that center around patronage networks focused on re-election, rather than governing. Second, the need to secure financial resources to mount modern election campaigns has exacerbated the power of such traditional networks. Third, the clientelistic, patronage-based politics has reinforced the power of Congress. Fourth, interest organizations – whether representing employers, labor or civic causes – tend to debilitating internal and external divisions that seek to protect their points of access to political power, rather than build local or national coalitions in support of political, social, or economic agendas. Finally, political parties compete, rather than collaborate, with these interest organizations, a fact which sets the stage for sometimes violent confrontations with the state.

Explaining how things got to this state is far easier than finding a way out. However, the problems of most concern to Hondurans – unemployment, corruption, and crime – will not, at least on a mass level, lend themselves to clientelistic solutions.

2.0 Honduras' Labor Sector

Using the conceptual framework summarized above, section 3 describes various dimensions – the legal foundation, government institutions, organizations, and markets – that underpin Honduras' labor sector.

Legal Foundation. Honduras' legal framework with respect to labor law and labor justice is generally adequate. With regard to external frameworks, Honduras is compliant with all internationally recognized conventions on core labor standards and is party to several trade agreements (e.g., the European Union's Generalized System of Preferences and the U.S.-CAFTA-DR) that cover labor standards to various degrees. Nationally, Honduras' Constitution, Labor Code, and supplemental statutes provide protection for individual workers and unions, although the rights of workers in export processing zones are more constrained than in the general economy. In general, Honduran workers suffer from weak institutional capacity and implementation of the procedures that serve the laws. Despite strongly worded protection, discrimination, anti-union threats, and aggressive intimidation and reprisals are commonplace.

Government Institutions. Honduras' Ministry of Labor and Social Protection is the lead government agency responsible for unions and collective bargaining agreements, wages, workplace inspection, and workplace dispute resolution. The Ministry also chairs the forum for tripartite discussions among government, workers, and employers to advise on labor-related policies. Legal disputes are heard by the court system in Honduras which includes a specialized labor jurisdiction with its own procedures and judges. Labor disputes typically involve allegedly unjustified dismissals and requests for payment or

reinstatement. Caseloads are low, due to workers' perception of limited probability of a satisfactory resolution within a reasonable period of time, lack of familiarity with judicial operations and processes, the need to have legal counsel and the scarcity of pro-bono or state services, the perception that decisions will favor employers (with their better paid counsel and likely good contacts with political authorities and judges), the inability to afford the costs of appeals, fear that taking a case to court will get them on an employer's blacklist, and convoluted bureaucratic procedures. The net result is to impede access to the rule of law for Honduras' less well-off citizens.

Labor-Related Organizations. Honduras has a relatively strong union movement, despite problems with enforcement of the Labor Code and the inadequacies of judicial relief for labor law violations. In their broadest configuration, union confederations include a wide cross-section of Hondurans (women's groups, ethnic groups, neighborhood groups (*patronatos*), peasants, and others). This helps to increase their numbers and thus their overall strength, which is a good thing, but also makes it more difficult for them to arrive at consensus on political positions. Nevertheless, Honduras provides an interesting example of labor unions that seek alliances with, and thus presumably advocate for benefits on behalf of, a broader cross-section of Honduran society.

Labor markets. The greatest weakness of Honduras' labor market is obviously the fact that not enough formal sector jobs have been created for all Hondurans who seek work. This pulls Hondurans into cities and out of the country in search of work. Labor mobility in and of itself is a good thing, as it helps to re-equilibrate labor markets, but social dislocation for families, trafficking victims, and even illegal immigrants deported from the U.S. can have unintended negative consequences. Moreover, the continued presence of available supplies of "excess labor", i.e. un- or under-employed workers in search of jobs, puts pressure on those who are employed to refrain from pushing back in the face of labor rights infringements, unless or until labor conditions become dangerous or completely intolerable, for fear of losing their jobs.

Recent analysis of the impact of CAFTA-DR on the Honduran labor market suggests that overall growth should offset potential negative livelihood effects in rural areas. Such a conclusion assumes that labor is mobile between rural and urban sectors and that rural workers will have the minimum resources (skills, industrial employability) required by employers in the *maquila* sector. The continued strength of the *maquila* and agribusiness sectors of the country is, of course, a strength of Honduras' labor market and a testament to Honduras' continued competitiveness in manufacturing. As manufacturing grows, employers are noting growing skills gaps, and this, too, is a positive sign that the economy is vibrant and diversifying.

3.0 The Role of the Labor Sector in Overarching Development Themes

Section 4 lays out how engaging in labor issues cross-sectorally, i.e. by integrating legal, political, social and economic dimensions, can improve the efficacy of strategic approaches to USG programming.

Governing Justly and Democratically: Rule of Law. Rule of Law (ROL) remains one of USAID's core governance areas and USAID/Honduras has a long history of supporting the development of ROL in Honduras. Rule of law involves more than the efficient and effective resolution of individual cases – it also requires that those who believe their rights to have been violated have access to effective review and that through this process public and private parties are given incentives for future compliance with the legal framework. The Honduran administrative and judicial conflict resolution system in the labor jurisdiction (as well as in others) falls short in these areas.

Because labor rights are potentially of interest to a large portion of the population, far greater than the number who currently attempt to access them, reducing the gap between what the law promises and what actually is delivered would be a major step in enhancing the rule of law in Honduras.

Governing Justly and Democratically: Good Governance. As regards areas where they want government to work and as is true throughout the region, Honduran citizens' major concerns have focused over the last decade on three issues – employment, security, and corruption. The order of importance varies over time, but the three are also clearly linked. Insecurity and corruption work against investment and thus employment. Low employment may increase insecurity by driving the needy into crime, and insecure employment may also feed corruption, as another less desirable but viable survival alternative. One could select any of the three as a key to combating the others, but a government's ability to promote more employment under fairer conditions may provide a convenient entry point to the rest.

Recent public opinion surveys from Central America demonstrate that unemployment ranks above crime as the issue of most concern for the Honduran population. Thus it would make sense to encourage government to focus on the many aspects of the employment issue, not only job creation, but also measures to ensure more job security and fairer working conditions.

Governing Justly and Democratically: Political Competition and Consensus-Building. The current political challenge in Honduras is not more competition, but ensuring that the competition involves focusing on issues beyond “which patron-client network will have control of resources over the next four years.” Further declines in identification with parties and faith in the electoral system as a means of making one's voice heard could lead to instability, the emergence of anti-system movements, and possibly the polarization of a society which until now has seemed relatively well-integrated. Honduras is also noteworthy for the many efforts over the past thirty years to form cross-sectoral movements aimed at pressuring political elites to recognize and respond to citizen demands. Joining in such efforts is a natural role for the three labor confederations, and one they have played in the past.

Labor rights are clearly of broad, common interest and there are thus a series of common themes that could be incorporated in a cross-sector forum. This may also be a way of moving beyond the patron-client trap into a focus on public goods and the broader visions their realization requires.

Governing Justly and Democratically: Civil Society. Honduras has a vibrant civil society and the highest incidence of citizen organizational membership in the Central American region, according to the 2007 *Latinobarómetro*. Given the crisis of the traditional parties and the weakness of the state, civil society organizations take on a number of important roles – they are a way of making one's demands known, an alternative form of providing basic services, and potentially a means of developing more effective citizen input into the policy-making process.

In the labor sector, two kinds of organizations are important – the unions and the civil society organizations that specialize, often but not always in cooperation with the unions, in helping workers navigate the system for understanding and accessing their rights. Given the many impediments to more effective performance by the state, at least over the short to medium run, working with these organizations is a useful tactic for donor actions – and over the longer run may be a means of improving the state's own response.

Economic Growth: Trade, Investment, and Competitiveness. Much of the economic growth program in a U.S. trade partner like Honduras focuses on building the capacity of government, businesses, and workers to take advantage of new opportunities afforded by trade liberalization and integration. As developing countries open their economies to trade, their education and training systems must also prepare youth with the basic numeracy and literacy, language, technical, and management skills required by global industries. Labor conditions themselves have become an element in the competitiveness equation. Compliance with core labor standards is now viewed as an essential starting point by international companies who source from developing countries, sensitive to the potential for damaging consumer repercussions if labor rights abuses by supplying factories are publicized. Finally, investors seek platforms where industrial relations are not violently confrontational.

For all these reasons, defining a labor variable in trade, investment, and competitiveness equations that extends beyond limited consideration of “labor market flexibility” makes sense.

Economic Growth: Agriculture, Rural Development and Economic Opportunity. While labor rights and productivity are crucial issues for the private sector in general, for agriculture-based rural and marginal populations the challenge of employment creation looms especially large. Adoption of a labor market overview is needed to understand the forces that shape the availability of labor in rural areas, the pressures household members face to migrate or emigrate, and the attractiveness of alternative livelihoods (even those that may be illegal, such as gangs, production of illicit crops and drugs processed from them, trafficking, sex-based commerce, and exploitative child labor).

Expanding employment in labor-intensive, export-oriented agriculture is an attractive notion. Note that this export sector, like manufacturing, also requires specialized workforce skills if agro-enterprises are to compete, and thus attention to workforce training.

Tensions and Synergies Among Themes. Sometimes the “stove-piped” nature of development and diplomacy objectives inadvertently pits one priority against the other. In designing a development program in the face of limited resources, should we focus on labor rights “or” economic growth? The answer to this false dichotomy is to focus on the synergistic relationships between and among labor-related objectives. Two particular areas where these tensions and synergies appear in Honduras are with regard to the relationship between industrial relations and competitiveness, on the one hand, and the focus on rights of formal-sector workers versus the needs of the broader workforce, on the other:

- While industrial relations can be contentious and are often greeted with employer hostility, in a globalizing economy it may make more sense for employers and workers to find areas of common ground to improve their prospects for productivity improvement, market gain, and thus employment growth (or at least stability) in the face of external competition.
- In most developing countries workers in the formal sector represent a distinct minority of the total workforce. For the rest of the workforce, employment in the informal sector may mean lower wages, less regular work (which can also have the advantage of increased work-hour flexibility), and reduced or absent benefits. It most certainly means that the protections of rights afforded by the national labor law do not apply. Ensuring that workers have the skills and enjoy the mobility to take advantage of formal sector employment opportunities is therefore a high priority. Working to expand the pie of formal sector employment opportunities through economic growth programs that are job-creating is another. Finally, ensuring that formal labor protections are actually available to those already nominally covered by the law, and closing coverage gaps (such as with small agricultural enterprises in Honduras) is also essential.

4.0 Strategic Considerations

Numerous opportunities exist to integrate labor-related concerns to help achieve USG mission objectives in Honduras in priority areas. The following “points of leverage” are offered either to be addressed directly or to be approached indirectly, strengthened during the course of USAID/USG work in other areas.

Strengthened Rule of Law

To promote rule of law and human rights, labor rights should be considered alongside human and other rights as gateways through which citizens can gain access to the protection of law in an important area that affects their lives and those of their families on a daily basis.

- Reducing the gap between what the law promises and what is actually delivered would be a major step in enhancing the rule of law in Honduras.

- Legislative reform should be pursued in combination with grassroots partners that seek to advance workplace rights.
- Citizens need improved education about their labor rights, so that they can better understand what is happening to them in their workplaces and pursue legal courses of action to resolve disputes.
- Expand training of judges and lawyers in labor law, including international labor law, and facilitate contacts of labor lawyers with national and international non-profit organizations working on corporate social responsibility issues.
- Consensus required among all parties as to how labor proceedings should be handled, to better define them and discourage the tendency to revert to the much more complex civil procedural code.
- The provision of legal counseling and advisory services for those who cannot afford them, subsidized if necessary, is needed to ensure that the rule of law extends to all citizens.
- The advance of voluntary, private dispute resolution mechanisms would relieve some of the pressure on the Ministry of Labor and labor courts.

Increased Accountability of Government

To promote good governance, expanded capacity of the Ministry of Labor and public dialogue are needed.

- Good governance in Honduras requires more citizen involvement, but citizens made insecure because of the precariousness of their employment situation are less likely to engage productively in community and national political life.
- To improve its effectiveness at enforcing Honduras' labor legislation, the Ministry of Labor's budget must be increased, increases in staffing and further capacity building are required, and external interference and corruption must be reduced. Partnerships with public and private sector groups, such as NGOs, may help to compensate for staffing shortages.
- The Ministry should be encouraged to trust its primary client, the worker, rather than insist on thoroughly investigating every submission.
- Consideration should be given to greater decentralization of services and elimination of service redundancies, such as the streamlining into one unified set of workplace investigators.
- The ability of the poor and marginalized (*los de abajo*) to participate effectively in local governance can be enhanced by strengthening unions, civil society organizations, and local communities.
- Employer fines for non-compliance should be increased in order to strengthen incentives to comply with the law. Alternatively, systematic violators should be taken to court.
- To improve access to justice, three possible solutions: 1) use a faster process, i.e. an *amparo*, to resolve individual cases; 2) augment the impact of single decisions either through the introduction of more collective actions or through the imposition of greater penalties on violators; 3) use CAFTA-DR as a lever to put pressure on the country to address labor violations.
- In order to temper corruption incentives donor programs may consider conditioning future assistance on visible progress in outputs, not just legal or structural change, and ensuring that this progress is adequately monitored and publicized.

- Anticorruption efforts should include a focus on the multiple forms of corruption that exist related to labor disputes.

Less Focus on Political Competition, More on Consensus-Building

The current challenge in Honduras is less about competition, and more about ensuring that the competition involves focusing on issues that matter to citizens. Further declines in identification with parties and faith in the electoral system as a means of making one's voice heard could lead to increased instability, the emergence of anti-system movements, and possibly the polarization of Honduran society.

- Joining in such efforts is a natural role for the three labor confederations, and one they have played in the past.
- At the confederation level labor has shown an interest in promoting policy choices of broader interest. While this may at times create conflicts with the immediate bread and butter concerns of the first-tier unions, even those concerns can be translated into generalizable benefits.
- Public debate over labor rights could lead to common, cross-sectoral themes that focus on public goods and the broader visions their realization requires.

Expanded Role of Civil Society

To expand role of civil society, focus on increasing labor unions' strength and their collaboration with other civil society groups.

- Unions can be one of the most effective means of improving the quality of work, while promoting the value of participatory democracy.
- Unions play a vital role in pursuing labor law enforcement on behalf of their members, particularly important in light of the weak administrative system.
- To counter dwindling union density which undermines the strength of unions, focus on sector-wide organizing to bolster union density.
- Strengthened connections to a wide cross-section of Hondurans (women's groups, ethnic groups, neighborhood groups (*patronatos*), peasants, and others) increase unions' numbers and thus their overall strength, and encourages them to advocate socially progressive positions on behalf of a broad cross-section of Honduran society.
- Labor-related CSOs represent an under-utilized capacity for labor analysis, training, and local and international advocacy that may be less intimidating than unions to employers in the current climate and thus should be considered as additional potential allies on the labor front.

Increased Investment for Economic Growth and Employment

To strengthen the commitment to the Honduran labor sector of foreign investors and foreign customers working with local companies, research is recommended into several possible areas of policy reform.

- Further investigation should explore whether contractor bond laws, as applied to public works projects in the U.S., might be developed to protect similarly workers of international companies operating in Honduras.
- Addressing issues of legal "alter ego" in the event that companies disappear and re-appear under a new name in order to evade responsibilities to workers.

- Honduras should consider the creation of a buyers' forum in Honduras that would meet once a year to facilitate communication among brands, suppliers and their sub-contractors, worker groups, NGOs, as in Cambodia. Such a forum could also help to coordinate and strengthen coherence among international and local monitoring and inspection systems.
- Labor-management cooperation should be advanced in targeted sectors with the goal of augmenting collaborative industrial relations, enhancing labor rights, and improving productivity, building upon examples seen in agro-industry and *maquila* operations.

Productivity and trade competitiveness

To improve productivity and trade competitiveness, workers and employers need to better understand each other's needs.

- Time lost to workplace disputes, work stoppages, or strikes compromises factories' abilities to maximize their competitiveness. Collaborative industrial relations are thus a critical dimension of an economic competitiveness strategy as companies and countries seek to take advantage of foreign trade and investment.
 - Workers need "economic literacy" training to understand international global pressures facing their industries and the implications thereof for Honduran market, foreign investors, & labor environment.
 - Employers need more training to become sensitized to the needs of their most valuable asset, i.e. their workforces.
- Honduran industries should become more familiar with international codes of conduct and workplace auditing standards to ensure widespread consensus regarding enforcement of labor standards.
- Honduras should carefully evaluate its workforce development system, developing and implementing a strategy to increase productivity and competitiveness through the provision of basic, technical, and management skills required by Honduras' industries.
- Greater support for occupational safety and health training would improve competitiveness and, at the same, one of labor's biggest concerns in the workplace.
- Defining a labor variable in trade, investment, and competitiveness equations that extends beyond limited consideration of "labor market flexibility" with regard to hiring and firing to include the roles of collaborative labor relations and workforce skills/labor productivity in helping to determine competitiveness outcomes would help to address these previously ignored dimensions of labor in economic growth considerations.
- The production, processing, and shipping of horticulture, floriculture, and other non-traditional products are particularly labor-intensive and thus employment-generating activities. Expanding employment in export-oriented agriculture, therefore, especially for the poor, is an attractive notion. However, this export sector, like manufacturing, also requires specialized skills.
- Assisting enterprises to achieve fair trade certification would be a strong, market-based reward for those firms that have made real efforts to improve working conditions and work with, rather than against, their workforces to raise productivity and compliance.
- Given that formal employment represents a distinct minority of employment across the total workforce and that the informally employed face lower wages, less regular work, reduced or absent benefits, riskier or more abusive work, and lack of protections of rights afforded by

national labor laws, ensuring that workers have the skills and enjoy the mobility to take advantage of formal sector employment opportunities is a high priority, in addition to working to expand the pie of formal sector employment opportunities through economic growth programs that are job-creating. The possibility of applying the GFI tool for assessing informal sector labor rights issues should be explored in Honduras.

1.0 INTRODUCTION

1.1 WHY LABOR AND THE LABOR SECTOR?

The term “labor” means different things to different observers. It may refer to people who work or the human activity that produces goods and services in an economy. As a grouping of people, the term generally refers to worker organizations that represent workers’ interests collectively and individually and have workers as their members. “Labor” may act to achieve specific short-term goals, such as ending addressing workplace conditions, or large-scale, long-term goals, such as bringing about social and political change. Thus, depending on one’s vantage, the term may refer to specific industrial relationships between employers and unions or it may be interpreted more broadly to refer to all those who strive to earn a living, whether formally or informally employed, self-employed, unemployed, or out of the workforce. At the broadest level, the term can simply mean all workers.

This paper, and the larger project it introduces, deals with all of these definitions and issues through a focus on the “labor sector” and the role it plays in development. The labor sector is the arena in which youth as well as adult men and women prepare for and participate in the world of work. *A focus on the labor sector matters because of its impact on people’s abilities to find decent work, realize sustainable livelihoods, and raise themselves and their families out of poverty.*

The world of work is understood here in its broadest context, encompassing people engaged in agriculture, industry, and service sectors, whether formally employed, and thus protected under the law, or informally engaged in making a living. People work on- and off-farm, in rural and urban areas, in their own countries or abroad. They may toil in legal or illegal activities. They may be working voluntarily or, in the case of trafficked persons, against their will. Given the uneven access to power, economic resources, and political decision-making that frequently characterizes the position of workers and compromises their ability, individually and collectively, to access their rights, free and democratic labor unions can provide workers with a crucial voice in their places of work, in the industries in which they play a role, and in national decision-making as well.

As addressed in this paper, therefore, the “labor sector” is defined as the aggregate of labor rights, regulations, actors, and institutions that shape labor relations¹ and the functioning of labor markets, both formal and informal.

The U.S. government’s (USG) current and primary foreign affairs goal is to “help build and sustain democratic, well-governed states that respond to the needs of their people, reduce widespread poverty, and conduct themselves responsibly in the international system” (U.S. Department of State 2007).² This project focuses explicitly on labor and the labor sector because full consideration of diplomacy and development issues in the labor sector can be critical to building well-governed, democratic states able to respond to their citizen’s needs. The 2000 Report of the Advisory Committee on Labor Diplomacy to the

¹ Labor relations may be viewed generally as the relationship between workers and employers or more specifically “as a system for striking a balance between the employment relationship goals of efficiency, equity, and voice, and between the rights of labor and management” (Budd 2008, vii).

² The Obama Administration is finalizing its strategic reviews of foreign policy, including development. The results of the Presidential Study Directive on Global Development and the State Department’s Quadrennial Diplomacy and Development Review are expected to be released in September 2010.

Secretary of State and the President declared that “[p]romoting core worker rights is central to the basic purpose of U.S. foreign policy, which is to create a more secure, prosperous and democratic world...” (State 2000).

The sources of authority related to the goals and roles of the labor sector in U.S. development and foreign policy may be found in U.S. framework legislation, such as the Foreign Assistance Act (as amended), targeted U.S. legislation such as the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II Act), unilateral trade preferences and bi- or multilateral trade agreements with labor provisions, and USG policy as determined by the President’s Administration and long-standing USG principles and objectives.³

Just as a focus on the labor sector can help achieve foreign assistance goals, neglecting to address this sector has implications as well. For example, failure to address labor sector issues and correct asymmetrical access to resources may increase a country’s vulnerability to social and political dislocations that can adversely affect democracy, stability, and/or economic growth. A country that cannot offer the prospect of employment to its labor force may leave itself open to the destabilizing pressures that can arise from unemployed and disaffected adults and youth. A country that cannot assure working conditions compliant with international standards or cannot provide stable labor relations may make itself less attractive to foreign investment. And a country that does not provide appropriate knowledge and skills to its workforce through education and training may risk weak productivity and thus threaten its competitiveness on the global market. These factors in turn can also exacerbate a downward economic spiral. In such a scenario, investment may be discouraged, making it harder for local businesses to connect to international management techniques, modern technologies, and new markets. Formal sector growth can be stymied. People may look outside the legitimate sectors of the economy for new livelihood opportunities. The net result of these factors may be an increased reliance of the citizenry on public social entitlement programs, such as social security and health programs. This in turn places huge burdens on the public treasury, straining the government’s ability to provide for the basic needs of its people. At the same time, the downward spiral may affect prospects for democratic growth as well. Labor force participants whose rights are not protected by the country’s laws and institutions and who do not have an effective voice in advocating for legislative action or influencing government policy may lose faith in their governments, which in turn may lead to political and societal conflict.

A focus on the interests of labor, as represented by trade unions and other labor sector organizations, and business, as represented by employer or business associations, by developing country policymakers and the development organizations that work with them is therefore essential to address people’s rights and their needs to earn a decent living in support of themselves and their families. It is also important to the development of accountable political systems that respond to citizens’ concerns and interests, democratic multi-party systems that are interest-based, rather than based on personalities and patronage, and more vibrant civil societies. As people believe that their rights are respected, their voices are heard, and their access to education and livelihoods is improved, their commitment to their communities and nations is strengthened. Addressing these issues also builds human capacity in crucial areas such as negotiation and leadership accountability, which in turn contributes to the peaceful resolution of differences and disputes in labor and industrial relations and can provide critical incentives for more transparent governance.

The USG supports international labor sector programming in pursuit of development and diplomacy objectives, primarily through the U.S. Agency for International Development (USAID), the U.S. Department of State’s Bureau of Democracy, Human Rights, and Labor (DRL), and the U.S. Department of Labor’s (USDOL) International Labor Affairs Bureau (ILAB).⁴ USG programming has aimed at:

³ See also, for example, testimony provided by USG officials to Congress (e.g., Posner 2010, Polaski 2010, Reichle 2010).

⁴ Drawn from mission statements found on websites for the State Department’s Director of U.S. Foreign Assistance and its Office of International Labor and Corporate Social Responsibility and the Department of Labor’s ILAB.

- Affirming, and supporting the enforcement of, international labor rights;
- Combating child labor, forced labor, and human trafficking;
- Strengthening the capacity of institutions, governmental and extra-governmental, to administer effective programs in support of the labor sector;
- Promoting freedom of association, including the role of organized labor, building the capacity of free and independent labor unions around the globe to advocate effectively on behalf of their members for their rights and decent conditions of work;
- Engaging with civil society organizations to advocate regarding issues of concern to labor;
- Working with the private sector to protect human rights, including labor rights;
- Creating an international economic system that shares the benefits of increased economic growth and security with all workers; and
- Promoting economic growth with an enabling environment that encourages job formation, strengthens industrial relations between employers and unions, and addresses the needs of the workforce alongside the needs of employers to improve the competitiveness of firms, industries, and sectors, encourage growth, raise productivity, and stimulate wages and employment.

The USG’s use of labor diplomacy has helped ensure more coordinated support between development and foreign policy goals. For example, the USTR has negotiated increasingly detailed labor provisions into trade agreements and, at times, the governments of developing countries respond with requests for technical assistance to better meet these obligations. The U.S. Department of State and the Department of Labor both provide technical assistance and act in the realm of labor diplomacy. Discussions on whether and what kinds of assistance the USG may provide to a country may be concurrent with a review of its compliance with labor rights provisions in trade agreements or beneficiary criteria for unilateral trade preference programs. This extension of assistance often has greater foreign policy implications in post-conflict and politically and economically unstable countries. Labor diplomacy may bring together developed and developing countries, as happened in April 2010 when USDOL hosted the first-ever meeting of labor and employment ministers from the world’s 20 largest economies.⁵ The Department of State’s Special Representative for International Labor Affairs also plays an important role in labor diplomacy.

1.2 OVERVIEW OF GLOBAL LABOR SECTOR ANALYTIC INITIATIVE

In 2007, the U.S. Agency for International Development’s Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA), in cooperation with the U.S. Department of State’s Bureau of Democracy, Human Rights, and Labor (DRL), were tasked with establishing how programs in the labor sector can best contribute to foreign assistance objectives. The aims of this paper are: 1) to present an innovative conceptual framework that unites democracy and governance and economic perspectives on the labor sector, 2) to explore how addressing issues in the labor sector (as defined above) can help achieve USG strategic goals in international development and foreign policy, and 3) to explore how addressing labor sector goals helps countries to achieve their overarching development objectives.

Viewing the labor sector as an integrated system brings several additional benefits. A systems analysis underscores how a properly functioning labor sector is important to the development of a liberal democracy

⁵ Described in detail at http://www.dol.gov/ilab/media/events/G20_MinistersMeeting/.

and favorable to market-driven economic growth, consistent with human rights and labor rights. Moreover, it is suggested that using that lens to identify programming options may actually be a *more effective strategy* for achieving those goals than focusing exclusively on a single, stove-piped component. Working with labor unions and business and employers associations, communicating social and political messages through such labor organizations, and strategizing economic growth by focusing on employment levels and conditions may provide valuable traction to achieve long-term development goals. In addition, working with labor unions may allow closer proximity to the poor, broader coverage, and more comprehensive and equitable program outreach.

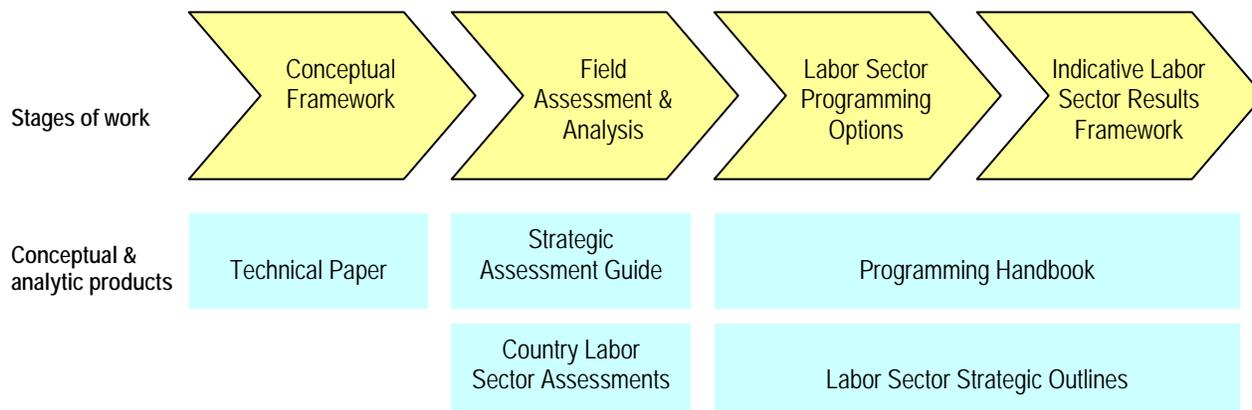
Labor diplomacy and development programs are implemented by USG agencies, international organizations, and implementing partners. Other programs managed by these three sets of actors may also affect the labor sector. To date, USG labor sector programs have generally addressed objectives in four main areas: labor rights, labor markets, and the roles of labor sector government institutions and civil society organizations in promoting foreign assistance goals. The USG has promoted labor rights as a key set of rights on their own and as a means of lending support to the advancement of all human rights.

The Global Labor Sector Analytic Initiative addresses the following questions:

- What is a “labor sector”?
- Who are the key actors in a labor sector, and what are the relationships among them?
- In what various ways are labor sectors structured around the globe and how do they behave?
- What performance standards would one expect to see in a “well-functioning” labor sector?
- How does the labor sector’s performance affect political, economic, and social development?
- How can various kinds of labor sector programs contribute not only to improved labor sector performance, but also broader diplomacy and development goals of the United States government (USG)?
- What results does labor sector programming seek to achieve and what data should we collect to evaluate progress toward such achievement?

The stages of work and corresponding conceptual and analytic products of the Initiative are depicted in the figure below.

FIGURE 1: GLOBAL LABOR SECTOR ANALYTIC INITIATIVE



This **Technical Paper** suggests that:

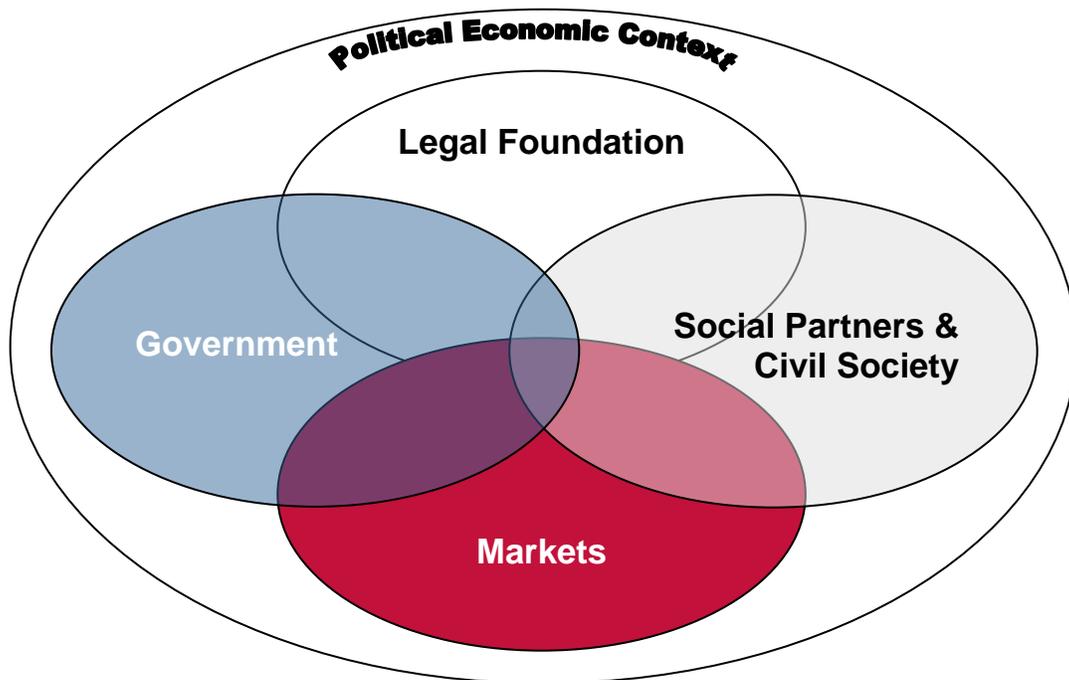
- 1) the labor sector – that is, the legal foundation, government, social partners⁶ and civil society, and labor markets, understood individually, overlapping, and intersecting with each other, as depicted below in Figure 2 – is a *multidimensional system* that requires multiple and integrated interventions to achieve diplomacy and development goals;
- 2) using this systemic approach offers *multiple utility*, as a means both to promote labor rights and trade unions and other labor sector organizations for their own sake and to increase the effectiveness of programs that seek to achieve a diverse set of USG foreign assistance goals;
- 3) labor sector issues are of *integral importance* to achieving progress in major foreign policy objectives, including respect for the rule of law (ROL) and human rights, promotion of democracy, and economic growth and prosperity; and
- 4) broad *political economy considerations* are an essential context for understanding how to address stability, rule of law, participation, livelihood, and social protection concerns.

In addition to this Technical Paper, the suite of labor sector analytic products includes:

- A **strategic assessment guide** detailing how to approach the organization and implementation of continuing labor sector assessments in the field (Salinger and Wheeler 2009b). This how-to manual:
 - provides a checklist of information that the assessment team seeks to collect in the field,
 - outlines how to carry out an integrated labor sector analysis to identify strengths and weaknesses of a country’s current labor sector,
 - ties these considerations to the achievement of broad development goals in the country, and
 - recommends strategic considerations for achieving U.S. foreign assistance objectives for that country.

⁶ The term “social partners” refers to both workers’ organizations and employers’ organizations, both of which cooperate with governments in social dialogues.

FIGURE 2: FOUR COMPONENTS OF A WELL-FUNCTIONING LABOR SECTOR



- A **labor sector programming handbook** with suggestions for labor sector program design or ways to include labor considerations in broader democracy or economic growth programming and a proposed structure for the accompanying results framework used by USAID to monitor programs.
- A pilot **labor sector assessment** testing the conceptual framework, conducted in Cambodia (Lerner, Salinger, and Wheeler 2008).
- **Country labor sector assessments** (CoLSAs), carried out in four of the five regions in which USAID programs are active:
 - Asia and Near East: Bangladesh (Kolben and Penh 2009)
 - Europe and Eurasia: Ukraine (Fick et al. 2009a)
 - Latin America and the Caribbean: Honduras (Cornell et al. 2009)
 - Sub-Saharan Africa: Nigeria (Thomas et al. 2009)
- **Labor sector strategic outlines** (LaSSOs), representing a more rapid and resource-efficient approach to field assessment and preparation of a template for a labor sector Results Framework, have been conducted in the following countries:
 - Georgia (Fick et al. 2009b)
 - Mexico (Bensusan and Burgess 2009)
 - South Africa (Kalula and Sukthankar 2010)

Findings from this body of work have been presented at a series of public Labor Forums for discussion with USG partners, including representatives from the USG's National Endowment for Democracy collaborating institutions, international organizations that support labor sector programs, non-

governmental organizations and research institutions that work in the labor sector, and development consulting firms that implement labor sector programs.

1.3 ORGANIZATION OF THE HONDURAN LABOR SECTOR STRATEGIC OUTLINE

The Honduras Labor Assessment was carried out from July 21 through August 1, 2008. Its purpose was to better understand the nexus of labor rights, organizations, markets, and institutions that exist and identify strategic approaches and opportunities for labor-related programming that may also help the USAID mission and U.S. Embassy in Honduras achieve strategic goals in other objective areas. The assessment team met with representatives of the USG mission, labor confederations and federations, individual unions and workers in the *maquila*,⁷ agribusiness, and port sectors, the Honduran and foreign business sectors, the Ministry of Labor, the Ministry of Commerce and Industry, other government agencies that address women's employment and child labor, the labor courts, labor lawyers, human rights organizations, workforce development organizations, and private think tanks and experts.

This report summarizes the Honduras Labor Assessment team's findings and analysis. Section 2 presents an overview of the economic, political, and historical contexts in which Honduras' labor sector is situated. Section 3 analyzes Honduras' labor sector in terms of its legal foundation, labor sector institutions and organizations, and labor markets. Section 4 analyzes the role of labor-related issues in the overarching development themes that have provided the foundation for USAID's program in Honduras from 2003 to 2008. Section 5 concludes with strategic considerations and program recommendations, highlighting opportunities for labor-related programming identified by the labor assessment team.

⁷ *Maquilas* are manufacturing factories. In Honduras, *maquilas* were first created in 1976 as free port industries in Puerto Cortés.

2.0 HONDURAS: SETTING THE CONTEXT

2.1 PRINCIPAL DEVELOPMENT CHALLENGES FACING HONDURAS

The name of the Central American Republic of Honduras evokes images of banana plantations and coffee *fincas* (farms). With both Caribbean and Pacific coastline, the country of 7.1 million residents and 18 departments shares borders with Guatemala to its west, El Salvador to its southwest, and Nicaragua to its east/southeast.

FIGURE 3: MAP OF HONDURAS



Source: Courtesy of the University of Texas Libraries, The University of Texas at Austin.

Since the latter half of the nineteenth century, the United States and Honduras have been linked through commercial, military, and diplomatic ties. By the mid-1980s, as a counterpoint to the civil wars that had wracked the region in the 1970s, the economies of Honduras and several other Central American and Caribbean countries formally edged closer to that of the United States through a series of preferential

trade arrangements, referred to as the Caribbean Basin Initiative.⁸ The Central America-Dominican Republic (CAFTA-DR)-U.S. Free Trade Agreement, implemented in 2006, marked the most recent stage in this economic integration.⁹ In addition to CAFTA-DR, Honduras is also party to several other FTAs, including within Central America, with Mexico, with El Salvador and Taiwan, and with Chile.

Fifty-four percent of Hondurans live in rural areas. The rest are concentrated in urban areas, mostly the central district of Tegucigalpa and the country's industrial center, San Pedro Sula, located in the north. The latter is connected by a four-lane highway to Central America's most important seaport, Puerto Cortés, within an hour's drive. In 2006 Puerto Cortés was certified under the U.S. Department of Homeland Security's (DHS) Container Security Initiative, the only Central American port to meet DHS standards to date.

TABLE 1: COMPARATIVE ECONOMIC STATISTICS

	Population (millions, 2006)	Population growth, % 2000-06	Per capita GNI (Current \$ 2006)	GDP growth, 2000-06
Costa Rica	4.4	1.9	4,980	4.4
Dominican Republic	9.6	1.6	2,910	5.2
El Salvador	6.8	1.5	2,680	2.5
Guatemala	13.0	2.5	2,590	3.0
Honduras	7.0	2.0	1,270	4.2
Nicaragua	5.5	1.4	930	3.4

	Agriculture		Industry		Services	
	% GDP	% LF	% GDP	%LF	%GDP	%LF
Costa Rica	8.8	15.9	29.4	22.5	61.8	61.1
Dominican Republic	12.1	15.9	26.2	21.1	61.8	63.0
El Salvador	10.9	19.7	29.4	24.2	59.7	55.7
Guatemala	22.2	38.7	19.1	20.0	58.7	37.5
Honduras	13.8	38.4	31.1	20.5	55.1	41.1
Nicaragua	19.7	6.4	29.5	25.7	50.8	67.9

Source: World Bank, World Development Indicators

Honduran rural livelihoods are traditional, centered on the cultivation of maize, beans, bananas, and coffee, while urban occupations span industrial and services sectors. Honduras' modern economy has embraced labor-intensive, export-oriented manufacturing, mostly of textiles and garments but also of electrical components such as automotive wiring harnesses, as well as aquaculture (especially shrimp farming) and cultivation of non-traditional agricultural products (cucumbers, melons, etc.) both for domestic supermarkets and export to international food chains.

⁸ According to the U.S. Trade Representative's Office, the CBI, launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA) and substantially expanded in 2000 through the U.S.-Caribbean Basin Trade Partnership Act (CBTPA) (which remains in effect through September 30, 2008) continues to benefit 19 Caribbean and Central American countries; see http://www.ustr.gov/Trade_Development/Preference_Programs/CBI/Section_Index.html.

⁹ Implemented in the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua; however, not yet approved by the Costa Rican legislature. On October 1, 2008 the USTR extended the deadline by which time Costa Rica is expected to join CAFTA to January 1, 2009.

Classified as a lower middle-income country, Honduras is the second poorest of the six CAFTA-DR countries. Per capita incomes among the six range from \$930 in Nicaragua to \$4,980 in Costa Rica, though the fastest growing economy is that of the Dominican Republic (5.2 percent). The overall rate of poverty has declined slightly, from 64.5 percent in 2001 at the beginning of Honduras' poverty reduction strategy period to 61.8 percent in 2006; the rate of extreme poverty has declined from 47.4 to 42.5 percent over the same period (according to the Poverty Reduction Strategy Information System, or SIERP). Poverty is concentrated in Honduras' west and south, specifically in the departments of Gracias a Dios (where 53 percent of the population lives on less than \$2 per day), Choluteca (42.5 percent), and El Paraíso (42 percent). The Honduran economy grew at 5.0, 4.1, and 6.0 percent in 2004, 2005, and 2006, respectively. Remittances from overseas workers home to Honduras, which in 1990 represented only 1.8 percent of GDP, are now a significant proportion of total national income, reaching 25.6 percent of gross domestic product (GDP) in 2006 (World Bank 2008b).

Among CAFTA-DR countries, annual population growth is most rapid in the region's most populous country, Guatemala (2.5 percent), followed by Honduras (2.0 percent). Guatemala is also the most agrarian of the six nations (22 percent share of agriculture), while at 31 percent the industrial sector in Honduras – the region's leading garment exporter to the U.S. – is the region's largest. Services are the largest sector of the economy in all six countries, particularly in Costa Rica and the Dominican Republic (62 percent each), where tourism is thriving. Employment by sector (Labor Force, or LF) is also noted below. Nicaragua is the only one of the six CAFTA-DR countries where the agricultural sector is reasonably productive, i.e. its share of the economy surpasses its relative portion of the labor force. In Honduras, by sharp contrast, 38 percent of the labor force continues to work in agriculture, yet produces only 14 percent of the country's GDP.

Table 2 compares Honduran development indicators with one Central American (Costa Rica) and one Latin American (Chile) comparator, chosen as references for a recent economic performance assessment conducted for Honduras (Miller et al. 2006). Among the various dimensions of Honduras' performance highlighted at the time (Miller et al. 2006, v), several are noted here:

- With very high levels of poverty and inequality, Honduras also has a young population that is growing quickly, putting pressures on the labor market to create jobs.
- Despite strong real GDP growth, Honduras' investment and labor productivity indicators have declined over time, with significant competitiveness challenges remaining.
- Men and women participate at very different rates in the labor force, with men heavily involved, while the rate of participation for women is quite low (although higher in Honduras than in Costa Rica or Chile).
- Two measures of rural sector performance – agricultural productivity (value-added) and cereal yields – are quite low.

Like many other developing countries, Honduras utilizes preferential policy regimes to encourage domestic and foreign investment in export-oriented activities. Free Zone (ZOLI), Industrial Processing Zone (ZIP), and Temporary Import Law (RIT) regimes all provide duty-free access to imported raw materials and components, 100 percent exemption on payment of export and local sales and excise taxes, 100 percent exemption from taxes on net assets and profits, 100 percent exemption from capital repatriation, and 100 percent exemption from taxes on profit repatriation.¹⁰ ZOLI, ZIP, and RIT companies are located in publicly or privately developed industrial parks (all are Honduran-owned).

¹⁰ Honduran Manufacturers' Association, see <http://www.ahm-honduras.com/html/incentives.html>.

TABLE 2: COMPARATIVE DEVELOPMENT INDICATORS

	Honduras	Costa Rica	Chile
Social Development			
Human Poverty Index ⁽¹⁾ (2007/8)	16.5	4.4	3.7
Inequality ⁽²⁾ (Honduras & Chile 2003, Costa Rica 2004)	3.4	4.1	3.8
Population growth (%) (2002-2006, average)	2.0	1.8	1.0
Growth Performance			
Real GDP growth (%) (2002-2006, average)	4.3	5.5	4.4
Foreign direct investment, % GDP (2006)	3.9	4.5	5.6
Growth in labor productivity ⁽³⁾ (2003-2006, average)	1.7	3.4	3.2
Competitiveness			
Global competitiveness index (2007-2008, ranking among 131 countries)	83	63	26
Labor Force Participation			
Female labor force participation rate (15-64)	58.0	50.0	41.3
Male labor force participation rate (15-64)	90.1	84.7	75.4
Rural Sector Performance			
Agriculture value-added per worker (constant \$) (2005)	1,217	4,622	5,666
Cereal yield (kg per hectare)	1,512	3,158	5,998

Source: Miller et al. (2006); World Economic Forum (2007).

Notes: (1) UNDP's Human Poverty Index ranges from 0 (zero deprivation incidence) to 100 (high deprivation incidence), based on the percentage of population not expected to survive to age 40, the percentage of illiterate adults, and the percentage of population without access to safe water or health services, and the share of underweight children; (2) Income share of poorest 20 percent, from World Bank World Development Indicators; (3) Ratio of real GDP to size of the working age population (age 15–64).

2.2 POLITICAL ECONOMIC OVERVIEW

In terms of its political economy, Honduras has much in common with its Central American neighbors (Nicaragua, Guatemala, and El Salvador, in particular) as well as with many other countries in the larger Latin American region. Beset by civil wars, rebellions and irregular changes of government until well into the last century, the country made its democratic transition in the early 1980s, but its persisting high levels of economic inequality easily translate into inequitable access to state resources and services and to influence on the political system. While Honduras is a democratic constitutional republic, its public institutions are highly inefficient, unnecessarily politicized, and rife with corruption. As throughout Latin America, the legal framework is far more advanced in its content than in its application, and the rule of law is extremely weak. Considered within Central America, Honduras is distinguished by a number of exceptional characteristics. It did not suffer the civil wars of the 1970s and 1980s (in part because of a unique, military-led, agrarian reform), but currently suffers from one of the highest levels of violence and corruption.¹¹ Historically, the Honduran government has had a greater tendency to negotiate with, rather

¹¹ Rankings vary according to the year and the index. Whereas Honduras did better than Nicaragua and Guatemala on the World Bank Institute's corruption indicator for 2007, between 1996 and 2006, it held last place five times, and in 2007, it also had the worst score in Central America on Transparency International's Corruption Perception Index (CPI). As regards levels of violence, as reflected in homicides per 100,000 inhabitants, Honduras' murder rates in recent years have been lower than those in El Salvador and Guatemala, according to the *Observatorio Centroamericano sobre Violencia (OCAVI)*.

than suppress, peasant and workers' movements (Taylor-Robinson 1999, 593; Weaver 1994, *passim*).¹² Over the past fifty years the country has witnessed a series of popular movements in which business, labor, and civil society associations combined forces to demand political and economic reforms. The latter's outcomes have ultimately been disappointing, but they have produced significant legal and structural changes.

Honduras' unusual pattern of economic development explains some of these differences. Although a coffee-producing country, Honduras did not follow the Central American path of state-building by a national class of coffee growers (Euraque 1996, 10).¹³ For most of the 19th century, its population engaged in subsistence agriculture and the production of a few commodities largely exported to neighboring countries (Argueta 1992, 8). From the 1870s until well into the 20th century, its growth, export base, and state revenues (via concessions) depended on two sectors – mining and bananas – that were dominated by foreign investment and that, in the case of bananas, motivated a substantial migration of workers to the Northern coast.¹⁴ Honduras thus did not develop a national “bourgeoisie” until fairly recently (Euraque 1996, 9-13; Zinecker 2008, 10-11), and when it did, it tended to be urban- rather than rural-based. This phenomenon, unusual for Central America if not for the larger region,¹⁵ also encouraged a division of political and economic power. The government, financed by concessions, was run by a series of generals and lawyers operating out of the inland capital, while a more dynamic and liberal economic class began to develop around the Northern coast. The leaders of the latter group and Honduras' current economic elites are largely descendents of European and Middle Eastern immigrants who arrived in the late 19th and early 20th centuries and still are identified by their ethnic backgrounds. They first devoted themselves to commerce and only later expanded into industry, finance, and agriculture. Until recently they did not play a direct role in the country's politics nor accumulate the large fortunes associated with their Guatemalan and El Salvadoran counterparts. As the saying goes, “Honduras is too poor to have an oligarchy” (Euraque 1996, 1). That is no longer true, and several family empires now qualify for sub-regional status (Illescas 2008, 281).

The country's post-independence history was characterized by political disorder. Of the 300 or so rebellions, civil conflicts, and irregular changes of government, more than half occurred in the past century (Crosby and Guttman 2007, 11). With the dictatorship of General Tiburcio Carías (1932-1949), the situation stabilized, but the nation faced another 17 years of military rule from 1963-1980 (with a short civilian interregnum in the early 1970s), before it underwent its democratic transition. It took another decade and several additional reforms to remove the military from politics, but since 1980 Honduras' government has been chosen by periodic elections and thus is classified as democratic. Still, its Freedom House score on civil and political liberties is only 6 (out of 14), and on the World Bank's rule of law, anticorruption, and regulatory indicators, Honduras is well below the worldwide average (Mainwaring and Scully 2008, 118).

¹² While this might seem contradicted by events like the violent response to the banana workers' strikes of 1954 and the Carías dictatorship's (1933-1949) suppression of all union activities, as Weaver (1994) notes, the Honduran state had traditionally relied on foreign owners of enclave industries to do their own suppression. In any event, the statement is relative, and seems to hold true as compared to the more directly repressive policies of neighboring countries like Guatemala and El Salvador. More pronounced intra-elite conflicts in Honduras may also account for the difference.

¹³ There is a lengthy literature (much of it cited in Euraque 1996) explaining the development of the Central American states on the basis of the coffee industry, attributing, for example, Costa Rica's more democratic trends to the prevalence of small growers, as opposed to the role of large-landholders in Guatemala and El Salvador. Euraque also notes (11) that Honduras' coffee lands were located in areas dominated by peasant agriculture, but that the state neither supported them nor facilitated their take over by agricultural capitalists.

¹⁴ The banana economy also attracted workers from El Salvador and the foreign companies brought in Jamaicans as well. The silver mines, which never required as large a labor force, were located in the highlands and thus already had workers available there.

¹⁵ There are some parallels, for example, with Ecuador whose political class was centered in the country's highlands, while the more dynamic economic groups, also more recent immigrants, operated out of coastal Guayaquil.

The dominant National and Liberal parties have their origins in the 19th century. For the last 28 years they have won all national elections and the vast majority of congressional seats and municipal offices,¹⁶ with the Liberals holding the most national victories. In the 2005 national elections, the three smaller parties, the Christian Democrats, the Social Democrats, and the Party of Democratic Union collectively captured 11 congressional seats against the 117 won by the Liberals and Nationalists. In addition to a relatively strong (for the region) union movement, the country also hosts numerous other civil society organizations (CSOs) – business and professional associations, public interest NGOs, and organizations representing communal interests or dedicated to advancing environmental, indigenous, gender, and similar rights (Cruz and Espinoza 2003).

Despite these outward signs of progress, in terms of the distinction made by Mainwaring and Scully (2008, 113), Honduras's transition to democratic *government* has not been accompanied by significant advances in democratic *governance* – the “capacity of democratic governments to implement policies that enhance a country's political, social, and economic welfare.” This cannot be blamed on the legal framework or formal structures which are generally agreed to be adequate. What was not modernized by the 1982 Constitution has been upgraded by subsequent constitutional amendments and infra-constitutional law. Some of these laws have not been fully implemented or not implemented at all, but the fundamental explanations for the country's problems are rooted in its history and institutional practices that law alone cannot change.

First, the traditional parties (and, observers claim, even the small opposition parties) are plagued by numerous problematic practices. The democratic transition came very rapidly in Honduras and was mounted on a party system that relied on patronage, clientelism, and face-to-face contacts with candidates.¹⁷ A series of post-1980 reforms to the electoral law decreased the powers of the parties' topmost leaders (especially as regards naming candidates, now chosen by internal primaries), but also exacerbated internal conflicts. They did nothing to decrease the dependence on networks of lower level leaders and activists to get out the vote – usually in exchange for jobs and access to other state resources if their party wins (Salomón et al. 2004, Taylor-Robinson 2006). Despite slightly different ideological leanings in the beginning,¹⁸ neither of the traditional parties is currently programmatic and both feature internal factions organized around individuals competing for leadership. A handful of small, new parties have been unable to make much headway, have to some extent adopted the traditional parties' patronage mechanisms, and are in any event stymied by citizens' tendency to vote traditional lines. Honduras is experiencing some popular discontent with traditional politicians, but so far this has simply reduced the “hard vote” (those inevitably voting Liberal or National) and voter turn-out,¹⁹ rather than encouraging the emergence of anti-system candidates or parties.

Second, the turn to modern electoral practices has made campaign financing all important, thus opening the way for the entrance of economic elites, first as a source of funding and then as direct participants. The dominant economic groups tend to contribute to both traditional parties, with the expectation that this will create political debts to be repaid, whoever wins (Illescas 2008, 237). Debt repayment may include

¹⁶ Departmental governors are still appointed by the executive and have largely administrative functions.

¹⁷ Zinecker (2008) also notes that this was a top-down transition, introduced by the military and promoted by the U.S. Government. While CSOs actively demanded the change, it was not effected, as in El Salvador, Guatemala, and Nicaragua, by negotiations between the nearly co-equal parties to a former civil war.

¹⁸ The Nationalist party is perceived as more rural, authoritarian and conservative. It has its roots in the Conservative party of the independence period, although it emerged in its current form in the early 20th century (with a little help from United Fruit). The Nationalists supported the military's statist capitalism, but have since stuck more closely to neo-liberal economic doctrine. The Liberal party (also a holdover from the post-independence era) has tended to a more urban base and a greater insistence on individual freedoms, social peace and political reforms (Salomón 2004, 112).

¹⁹ In the 2005 election, turnout was only slightly over 50 percent, down from 70 percent or higher in prior national elections (Crosby and Guttman 2007, 14).

special access to government contracts, passage of favorable legislation, or the placement of their own people in key positions. The open ballot (congressmen do not run on a closed party slate, but rather as individuals, albeit identified by parties within a modified proportional representation system) has also given the edge to local-level entrepreneurs who can finance their own campaigns and then control the distribution of political resources within their districts from their congressional seats.²⁰ While this and other changes (e.g. party primaries) introduced in 2004 enhanced internal competition, they have also meant that winning candidates now must bargain with their own party members to get legislation passed.

Third, the clientelistic, patronage-based politics has had a series of negative effects on the balance of powers and institutional quality. Because of the electoral changes, Congress has arguably become stronger, although not necessarily more capable of forging consensus on policies, even those forthcoming from members' own parties. The executive's consequent loss of power has been further exacerbated by the need to place members of party factions (or other parties) in key positions, meaning that sector policies may not follow a common thread. At lower levels, patronage appointments also weaken bureaucratic effectiveness and efficiency as well as leaving the way open to favoritism and corruption. These problems are found everywhere, but seem particularly egregious in the state enterprises and other decentralized national organizations, further increasing their operating deficits. The long-standing tradition of replacing most civil servants with every change of administration is gradually being eroded, but civil service reform is needed.²¹ The judiciary and other horizontal control bodies (Tribunal of Accounts, regulatory agencies, and the anticorruption and human rights commissions) have likewise suffered a politicization of appointments that has weakened their roles. The Tribunal recently seems to have strengthened, but because of their overt political loyalties the courts enjoy one of the lowest levels of public confidence.

Fourth, all interest organizations, whether representing employers, labor, or "civic" causes, tend to debilitating internal and external divisions. Three labor confederations exist, and governments have successfully played one against the others. A tendency for the confederations to incorporate public sector, peasant, neighborhood, and ethnic associations has increased their membership substantially but also made it difficult to forge internal consensus on policy reforms. The strongest worker organizations are now in the public sector,²² where they enjoy special benefits awarded by a series of professional statutes enacted in the late 1990s. Like the unions attached to the remaining public enterprises,²³ their success in forcing government concessions is not always favorably viewed by other workers (Sosa and Ortega 2008, 36-37).²⁴

During the late 1970s and again in the mid-1980s, popular movements united the employer, labor, and civic associations for the purpose of ending military rule, and in 1985, preventing its return. Since then, relationships among business, labor, and other CSOs have tended to be more antagonistic, as is demonstrated by later efforts to revive the cross-sector movements. Between 1989 and 1993 the labor confederations led in the formation of the *Plataforma de Lucha para la Democratización de Honduras*

²⁰ Sometimes they "invent" resources to distribute. According to a recent Tribunal of Account audit, one of the factors contributing to the recent (mid-2008) teachers' strike was the creation of teaching positions in congressional districts without budgetary backing. Those hired to these positions were thus not paid.

²¹ Updating the civil service law would help to enforce transparent, merit-based appointments; tenure subject to performance evaluations; and equal pay for equal work.

²² Workers in the central public sector cannot form unions or strike, but rather have associations and engage in "informative assemblies," in effect, work stoppages. Public sector employees in the decentralized sector can form unions, but are usually prohibited from strikes for reasons of national interest. This prohibition seems to be honored in the breach.

²³ They are: ENEE for electricity, HONDUTEL for telecommunications, SANAA for water, and ENAP for petroleum.

²⁴ It also bears mentioning that the press has fed this trend. During the two weeks the team was in Honduras, press coverage of the teachers' work stoppage and a threatened labor action by medical professionals emphasized the benefits these groups already enjoyed and suggested their demands for higher wages would cut other investments in education and health.

(Platform to Fight for the Democratization of Honduras) aimed at combating the neo-liberal economic reforms of the Callejas government. The business associations did not join in, and the movement eventually collapsed because of disagreements among its member organizations. Three more recent attempts include the *Comisión Ad-Hoc para la Participación Ciudadana* (Ad-hoc Commission for Citizen Participation), the *Espacio Interforos* (Interforum Space), and the *Bloque Popular* (Popular Block). The three arose nearly simultaneously, but with a different focus and membership. The *Bloque Popular*, in particular, is closely linked to the three labor confederations and also incorporates public sector employee associations and indigenous groups (Cruz and Espinoza 2003).

Globalization and other economic developments have exacerbated these divisive trends. The private sector union movement suffered an enormous blow with a series of changes to the business model of the foreign banana companies, including the adoption of new technology, their expansion into other less labor-intensive agricultural and non-agricultural products, and – most significantly – their conversion from direct producers to buyers of the fruit. Total employment in the banana sector decreased dramatically and what is left is dispersed into many independent production units, whose workers must now be organized unit-by-unit or into a still nascent, industry-wide union. Current estimates are that direct employment by the companies, once the largest employers at the national level, is 3,000 workers (Illescas 2007, 258). Efforts to compensate by unionizing the *maquila* workers have not been successful owing to opposition from plant owners and from the Honduran financiers of the industrial parks where the companies are located.²⁵ The peasant associations (*asociaciones campesinas*) were founded by the banana proletariat during the agrarian reforms of the 1960s and 1970s. When their community-held lands were freed for direct sale in the 1990s (under an agricultural modernization law) many abandoned the sector, selling to large holders who are now using them for other purposes (development of industrial parks, residential communities, tourist facilities, or large-scale production of non-traditional agricultural exports). The remaining peasant organizations are numerous, but despite unification into several federations seem to lack a common direction and tend to limit their activities to localized demands for land titles or the provision of other government services (Sosa and Ortega 2008, 35). Community or neighborhood associations (known locally as *patronatos*) have experienced a revival but, even when successful, they tend to focus on purely local needs, albeit directing their protests and requests at the central, not the local, governments (Sosa and Ortega 2008). The most successful *patronatos* are rurally based; those in the major cities are viewed, even by their members, as vehicles to get out the vote for the traditional parties (Sosa and Ortega 2008, 84-85).

Fifth, the traditional parties' attitudes toward these groups as well as toward a thriving community of CSOs are marked by ambiguities. The parties' typical approach is to offer pay-offs (jobs for leaders or favorable legislation) but they consistently resist including the organizations in broader policy discussions. As documented by Salomón et al (2004) the traditional politicians seem perplexed by the role of interest groups in general, and CSOs in particular, questioning their representative nature ("who voted for them?") and arguing that if they want to make policy they should form a party and get themselves elected. This in turn puts a premium on violent confrontations with the state by groups who can mobilize members for this purpose.

The upshot of this series of characteristics is that Honduras' political system is still dominated by clientelism, patronage, and corruption; obtaining and retaining public employment is overly dependent on party connections; and policy and administrative decisions are usually shaped by particularistic interests and political debts. This reduces incentives for civil servants to do their work well, as that is no guarantee of keeping a job, which in turn further weakens the state's ability to implement policies. Policy-making also suffers, caught between the Scylla of paying off one's immediate supporters and the Caribides of

²⁵ As several of our interviewees noted, opposition from the industrial park owners, largely Hondurans, cannot be discounted, as they are among the most important local economic groups and thus have good contacts with the administration in power.

appeasing groups threatening political disorder, with little space for longer range vision of the common good.²⁶

USAID's recent democracy assessment identified Honduras's underlying governance problem as "hyper-competition and factionalism within each of the two main political parties" (Crosby and Guttman 2007, vi). This is a plausible explanation, but hyper-competition is in turn a consequence of the way stakes are defined, how the hyper-competitors draw support from other political groups, and what resources are available to the latter to influence the former once in office. In Honduras, the stakes are still public resources to be used as private goods, support comes from playing to particularistic interests, and the resources for exercising influence are very unevenly distributed – a competitive game that might work well on a level playing field is being conducted under very different conditions. The problem with clientelism is that not everyone can be a client and the pay-offs decrease as one moves down the pyramid. For the wealthy they involve multi-million dollar contracts and tax write-offs; for the poor they might be a low paying administrative job for a family member or maybe just foodstuffs in return for a vote.

Explaining how things got to this state is far easier than finding a way out, although even within the Latin American region, Honduras is hardly the worst offender. There are some positive signs, also mentioned in the USAID democracy assessment, as regards new political styles at the municipal level, and especially in the larger municipalities. Generational change may also be a positive lever, as may be the growing popular disenchantment with traditional politics and politicians. The problems of most concern to Hondurans – unemployment, corruption, and crime (Leggett 2007) – will not, at least on a mass level, lend themselves to clientelistic solutions.

²⁶ It bears mentioning that even the economic elites are internally divided, both among and within family groups. Part of the difference is generational and while younger members may not be more pro-labor, they may have a more enlightened approach to dealing with unions and labor relations and a longer-range view of economic needs. The same generation gap may affect labor leaders, with the older generation stressing "class-based" strategies and the younger ones at least talking about a change in tactics.

3.0 HONDURAS' LABOR SECTOR

Using the conceptual framework summarized in Section 1.0 above, this section describes various dimensions – the legal foundation, government institutions, organizations, and markets – that underpin Honduras' labor sector, as observed during the team's assessment.

3.1 LEGAL FOUNDATION

The analysis of labor law and labor justice necessarily begins with the sociopolitical reality and the context within which the labor law framework exists. High unemployment, underemployment, and irregular, unstable, and subcontracted employment detrimentally impact Honduran workers. The analysis of labor rights in Honduras must also acknowledge that 52 percent of workers from the informal or “autonomous” sector are marginalized from the formal system of protection. The vast majority are excluded from social security (health and maternity coverage) as well as disability and death benefits and advanced age income supplements. Social security contributions are levied against wages, but some employers do not comply. As a result, even in the formal sector the distribution of legally mandated benefits is unequal, and even when it is available, the benefit levels are very low. A sizeable percentage of the population does not even possess a Honduran identity card, the lack of which can impede access to rights and remedies.

3.1.1 External Framework

The international community has recognized Freedom of Association, and specifically the right to form unions, as a fundamental human right. Honduras joined the international consensus on labor rights by ratifying the major treaties and conventions that establish fundamental worker rights including the:

- American Convention on Human Rights (“Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports or other purposes.)
- International Covenant on Civil and Political Rights (“Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.”)
- International Covenant on Economic, Social, and Cultural Rights (“ . . .ensure the right of everyone to form trade unions and join the trade union of his choice . . . the right of trade unions to function freely . . . the right to strike.”)

Honduras is also a member of the International Labor Organization and as such is committed to the ILO's 1998 Declaration on Fundamental Principles and Rights at Work, which includes freedom of association and the right to bargain collectively, the elimination of forced and compulsory labor, the abolition of child labor, and the elimination of discrimination in the workplace. Honduras has ratified all eight major ILO conventions regarding the abolition of forced labor (C. 29 and C. 105), freedom of association and the right to collective bargaining (C. 87 and C. 98), freedom from employment and occupation discrimination (C. 100 and C. 111), and abolition of child labor (C. 138 and C. 182).

Labor standards are also addressed through trade agreements to which Honduras is a party. These include the European Union's Generalized System of Preferences Plus, which rewards beneficiary countries that have core human rights and labor standards conventions with additional duty benefits. Under Chapter XVI of the U.S.-CAFTA-DR, detailed provisions promote fair, equitable, and transparent labor law enforcement. Parties are required to provide public input on labor matters. Resources are committed to labor cooperation and capacity building to strengthen each Party's institutional capacity to fulfill goals under the chapter. Finally, cooperative consultations and recourse to dispute settlement mechanisms are also provided, if a Party believes that another Party is not complying with its obligations.

Pursuant to Article 18 of the Honduran Constitution, once international treaties enter into effect, they form part of domestic law. In the case of a conflict between the treaty and domestic law, the former prevails.

3.1.2 National Framework

Honduras has a comprehensive labor law framework with labor protection for individual workers and unions. The Constitution, Labor Code, Civil Procedures Code, laws governing the judiciary and the courts, and supplemental statutes protect core labor standards in the country. In contrast to the well-structured legal framework, however, Honduran workers' effective access to rights and justice is quite different in practice. Here, the well-defined rights diminish as a result of the failure to enforce the labor laws either because of a lack of sufficient resources or a lack of political will, or some combination of the two.

Honduran Constitution

Chapter V of the Honduran Constitution of 1982 guarantees numerous labor rights, including maximum hours of work (Article 128, §1 and §2), equal pay (Article 128 §3), minimum wage (Article 128 §5), paid vacations and holidays (Article 128 §§8 & 9), and indemnification for workplace injuries (Article 128 §12). Pregnant women are entitled to paid leave before and after giving birth and job protection (Article 128 §11). Lactating mothers are also to be provided a break for nursing. Article 128 establishes a floor for workplace rights, which cannot be reduced or waived. Agreements which transgress the norms established are considered null and void. It is noteworthy that Article 129 protects workers from unjust termination and permits the employee to choose either reinstatement with back pay or severance as the remedy. Article 139 requires the State to promote, organize and regulate conciliation and arbitration as a means to resolve workplace disputes.

Freedom of association is a constitutionally protected right for workers and employers (Article 128 §14). The right to strike and to engage in a work stoppage is also recognized, but may be regulated and restricted for those workers in public service (Article 128 §13).

Comprehensive Labor Code & Supplemental Statutes

The rights established in the Honduran Constitution are also codified and elaborated in the Labor Code of Honduras,²⁷ which is comprehensive and covers both individual and collective rights. The Labor Code governs private-sector workers and decentralized public sector workers. Agricultural and livestock-raising activities that employ fewer than ten permanent workers are excluded from the Labor Code.²⁸

²⁷ Labor Code of Honduras; Decree No. 189 (1959).

²⁸ *Ibid.*, Title I, Article 2, as amended by Decree No. 461. The only section of the Code that applies to these workers is Title IV that governs the workday, rest periods, and salaries. This exclusion has been criticized by the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO CEACR) as being inconsistent with Convention 87.

The Labor Code includes eleven titles, with several chapters in each that govern the relationship between workers and their employer. It governs work contracts, basic terms and conditions of employment, including the duration of the day and workweek, vacations, salaries, health, and hygiene. The Labor Code also establishes the Ministry of Labor to regulate the workplace and creates Labor Courts with specialized jurisdiction.

Honduras, like many other countries in Latin America, has developed labor laws that promote employment stability. After a short probationary period, there are a number of workplace rights. One of the most important is protection from unjust termination.²⁹ If the company instigates the termination, the worker is compensated and in some cases reinstated if just cause is lacking. The Labor Code creates a system of compensation for violations. Regardless of cause, employees are also entitled to benefits based on duration of service when their employment is severed.

Collective Rights under the Labor Code

Unions can be classified by: (1) business, (2) industry, (3) profession, craft or trade, and (4) general for diverse work environments with workers not performing the same type of work.³⁰ The most common by far is organization by business. Few unions have been organized by industry.³¹ Only one union is permitted to organize in a business or enterprise.³² The military and police are not permitted to form unions.³³ Security guards are also barred.

The rights to organize, bargain collectively, and strike form the triad of fundamental labor rights. These rights are necessarily interrelated and cannot fully exist independently. In Honduras all three of these rights are recognized and codified, but there are significant issues with enforcement in each area.

Union Registration and the *Personaría Juridica*

The Labor Code establishes a procedure for unions to become recognized legally that is referred to as *personaria juridica*. It is a formal mechanism for union certification that involves several steps. Union can begin the process by having an assembly and identifying the founding members and officers. The Executive Board of the union can only be comprised of Hondurans and they must be employed in the business enterprise. The Code requires unions to submit a list of at least 30 members to the Ministry of Labor.³⁴ This membership list and signatures, along with the position held by each, identity card numbers and other information, are submitted to the Ministry of Labor. The employer must be served personally with the list, which is typically done with an inspector from the Ministry of Labor and an employee. Thereafter the union petitions for full legal status as the registered trade union.

Collective Bargaining and the Right to Strike

Private-sector and decentralized public-sector unions have the legal right to bargain collectively. The collective bargaining agreement covers conditions of work, including hours, rest days, annual vacations, salaries, the discipline regime, security, and hygiene, as well as the rights and responsibilities of each party. Under the language of the Code, the parties can include any legal subject matter, but only one

²⁹ For example, the Code requires employers to pay 30 days salary for each year of service to those workers who have been employed continuously for more than 5 years. Article 104.

³⁰ Labor Code, Article 471.

³¹ The most important industry-wide union is the *Sindicato de Trabajadores de la Industria de la Bebida y Similares* (STIBYS), which includes beer workers.

³² *Ibid.*, Title VI, Article 472. The ILO CEACR has criticized this Title provision as a violation of ILO Convention 87.

³³ *Ibid.*, Title IX, Article 534.

³⁴ *Ibid.*, Chapter III, Article 475, as amended by Decree No. 760. The number has been criticized by the ILO as being inconsistent with Convention 87.

collective bargaining agreement is permitted in an enterprise. Employers have an obligation to bargain when requested by the registered union, but in practice unions have difficulty obtaining these agreements.

Title VII of the Labor Code covers collective conflicts and strikes in particular. While strikes are technically permissible for private-sector workers, the procedural requirements make it almost impossible to have a legal strike. As a result, there have been very few legal strikes in Honduras. Two-thirds of the workers at an enterprise are required to authorize a strike, which can only be called by first tier unions, not federations or confederations. Mediation, conciliation and arbitration are required prior to declaring a lawful strike.³⁵ Unfortunately, the Board of Conciliation and Reconciliation established to deal with workplace conflicts does not function. Strikes that involve public services, either directly or indirectly are severely restricted, even when performed by the private- sector workers. Six months notice is required prior to the strike unless the government authorizes the collective action, making it virtually impossible to comply with the law and engage in effective collective action. Other requirements include mandatory arbitration prior to the strike, which can further delay the strike for as long as the arbitration award applies, potentially up to 2 years.³⁶

Labor in Export Processing Zones

The promotion of freedom of association in export processing zones (under the ZOLI, ZIP, and RIT laws, described above) is particularly contentious, and labor rights are even more constrained by law and practice. While the export processing zone law of 1987 requires that companies comply with the labor law to avoid disruption to the export industry, the right to strike is effectively eliminated by treating these workers as part of public service.

Public-Sector Workers

Centralized public-sector workers are excluded from the Labor Code and instead are governed primarily by the Civil Service law. They are organized into associations, not unions, and do not have the right to bargain collectively. While public-sector associations (*gremios*) can present petitions (*memoriales respetuosos*) to provide collective feedback regarding public administration, they are not meant to address general work conditions. Since 1985, some public-sector workers have separate statutes that set their wages and programmed adjustments to them. Groups included are largely professionals, including public-sector doctors, nurses, teachers, university professors, and microbiologists. These statutes are not comprehensive and parts of the Labor Code or Civil Service Law may apply for certain areas not specifically addressed.

Workers in the decentralized public sector (state enterprises, foundations, institutes, and ministry-like institutes³⁷) are covered by the Labor Code and thus can form unions. However, public-sector workers in both centralized and decentralized agencies do not have the right to strike, though are permitted to have public assemblies and work stoppages. The one exception to this prohibition on public-sector strikes exists in the case of a *golpe de estado* (or *coup d'état*) when the government is overthrown by force.

Other Workplace-Related Laws and Regulations

- a) Law Governing HIV/AIDS
- b) Children and Adolescence Code
- c) Equal Opportunity For Women

³⁵ Labor Code, Article 553(b).

³⁶ Ibid., Articles 820 and 826.

³⁷ For example, the *Instituto Nacional de la Mujer* and the *Instituto Hondureño de la Niñez y la Familia*.

- d) Promotion of Work for the Disabled
- e) Industrial Zone Processing
- f) National Commission for Very Small, Small and Medium Business Law
- g) Law Governing Mariners
- h) Identity and Work for Foreigners
- i) Supplement to the Civil Code of 1906
- j) Honduran Social Security Law
- k) Law of Professional Formation Institute (INFOP)
- l) Law of Public Employees Institute for Retirement and Pension (INJUPEN)
- m) Institute of Magistrate Retirement Law

Retaliation and Union-Related Discrimination

Retaliation against workers pursuing their rights under the Constitution, Labor Code, or any other labor statute is prohibited by Article 4 of the Labor Code. There is a separate prohibition for reprisals that impair freedom of association. Title VI, Article 469 bars violence, threats or other actions that undermine the right to unionize. Two separate provisions protect founding members and union executive board members from termination, while heightened protection (*protección del estado*) is available for the founding union members. It takes effect when the employer is served with the notification of the initiation of the unionization process. Once such notification has been served, the employer is prohibited from terminating, transferring, or lowering their working conditions for any reason, without obtaining approval from the government.³⁸ Executive Board members are protected by the *fuero sindical* once elected to union office until 6 months after their term ends.³⁹

Despite the strongly worded language barring retaliation and creating heightened protection, discrimination, anti-union threats, and aggressive intimidation and reprisals are commonplace. Some of these practices are noted in the U.S. Department of State's 2007 Human Rights Report (State Department 2008) and the International Trade Union Confederation's annual survey of violations of trade union rights (ITUC 2007).⁴⁰ Intimidation of union organizing campaigns in Honduras is also detailed in the apparel (Armbruster-Sandoval 2003) and high-tech (Kernaghan 2005) industries. The penalties established in the Labor Code for violations are so low that they do little to discourage transgressions. Union organizers complain of threats and aggressive intimidation by employers.⁴¹ Cases of intimidation and violence have been documented by both the Solidarity Center (2008) and the ITUC (2008). A petition filed with the Inter-American Commission on Human Rights in January 2009 by nine labor rights organizations cited threats of violence against labor union leaders in Choloma and subsequent factory closures.⁴² Independent

³⁸ Labor Code, Article 517.

³⁹ *Ibid.*, Article 516.

⁴⁰ Specific complaints brought by national, regional, and international labor organizations against the Government of Honduras can be found in the ILO's International Labor Standards database, see <http://www.ilo.org/ilolex/english/index.htm>.

⁴¹ Of particular recent concern was the assassination in April 2008 of two CTH union leaders and their driver. Rosa Altagracia Fuentes, CTH General Secretary, Virginia García de Sánchez, and their driver were attacked by six armed masked persons while traveling on the highway between El Progreso and San Pedro Sula. Altagracia was shot 16 times. Robbery has been ruled out as a motive, since Altagracia was traveling with \$4,000 that was not taken. The AFL-CIO and the International Trade Union Confederation have denounced the murders, which to date have not been solved.

⁴² See Maquila Solidarity Network, "Honduran union leader's safety endangered," <http://en.maquilasolidarity.org/node/852> (accessed May 7, 2009).

investigations by several fair labor organizations found that the decision to close factories was driven by “a dramatic drop in demand for fleece products and a significant cost savings” due to the closure of the Choloma plant and did not reflect an attempt to shut down the union.⁴³

Termination for union organizing occurs frequently and employees are blacklisted, particularly in the *maquila* industry, despite prohibition by Article 96.6 of the Labor Code. Particularly troublesome are the mass layoffs of union supporters. Some businesses close and relocate after being advised of a union campaign. Workers and unions in the *maquila* sector described several instances where factories closed overnight without meeting the required financial obligations owed to workers. While some factories leave the country, others relocate nearby. Even in the latter scenario, recuperation of lost wages and severance required under the Code has been very limited.⁴⁴

3.1.3 Labor Law & Rights Strengths & Weaknesses

Despite the fact that labor laws and rights have received much attention and international resources in Honduras, particularly in conjunction with the CAFTA-DR agreement, Honduran workers still face an uneven playing field, including inequitable access to power, economic resources, and decision-making authority. Workers must contend, *inter alia*, with employers who seek to circumvent the labor laws and with a paucity of legal instruments to use to defend their interests.

Revisions to the outdated labor code would help. For years there have been discussions in Honduras on the need to update the current labor code, now nearly forty years old. Considerable attention has been given in the last few years, as a result of CAFTA-DR and concerns about potential deterioration of labor standards under the agreement. In 2005 a working group of vice-ministers for trade and labor from CAFTA-DR countries issued a report (Working Group 2005), referred to as the White Paper, under the sponsorship of the Inter-American Development Bank and with the participation of the ILO. This was the first meeting of its kind. The report not only affirms the commitment to core labor standards and the ILO’s International Declaration of Fundamental Principles and Rights at Work, it also references specific legislative and administrative proposals that advance the effort. Some of the most pressing issues targeted for change were highlighted, *inter alia*:

- The exclusion of agricultural and livestock-raising activities with fewer than 10 workers from application of the code (except for provisions on wages) denies freedom of association to these workers.
- The requirement that enterprises must have more than 30 workers to establish a union denies freedom of association to workers in small and medium-sized enterprises.
- The requirement of approval of a union’s legal identity by the Ministry of Labor and Social Security is contrary to the right to organize without distinction or previous authorization.
- The exclusion of foreign nationals from holding union office is incompatible with workers’ right to elect representatives in full freedom.
- The prohibition against more than one enterprise-level union is also a violation of the freedom to establish trade unions.
- Various limitations on the right to strike by public sector workers violate this very right.

⁴³ See Fair Labor Association news releases, http://www.fairlabor.org/news_releases_a1.html (accessed May 26, 2009).

⁴⁴ In the U.S. contractor or public works bond laws require employers to post bonds to cover prevailing wages owed to workers in the event of project closure. Further investigation should explore whether such laws might be developed to protect similarly workers of international companies operating in Honduras.

Other issues addressed include raising the penalties for employers' violations of labor rights, strengthening the anti-union discrimination clauses (including prohibiting blacklisting), and expanding the probationary period for new workers. The incorporation of changes to the pension and medical benefits system, to move toward unification of the current multiple programs into one program with universal coverage, has also been suggested.

While all of Honduras' neighbors have revised their labor codes in accordance with the ILO White Paper recommendations and with significant international assistance, Honduras stands alone in its lack of progress with labor law reform. A comprehensive draft of the labor law reform was initiated in 1995; more recently, a more limited reform of thirty-three articles was prepared in the hopes that agreement could be reached on a lesser number of targeted improvements. However, as recently as July 2008, the Ministry's tripartite commission was unable to reach the consensus needed for approval. Both labor and employers have reservations about the proposal, not only as to what they might be sacrificing in the revisions as drafted, but also as to how Congress might further modify the proposal. Conceivably, results might be reached on a still narrower package that includes the few articles on which everyone can agree.

A few changes might be reached through other legislation. Prior regulatory reform introduced by the ministry pursued this approach. For example, a 2002 order prohibits the intervention of employers in the process of union registration, and a 2005 order clarifies that employers may not, under threat of sanctions, impede labor inspectors from entering workplaces to do their inspections. Complaints to the assessment team about practices violating these two regulations suggest some of the limits of legal change. It would clearly be preferable to eliminate some of the less felicitous provisions of the existing code, but given the disagreement as to which provisions those are and how they might be improved, this will not be easy. Furthermore, once that is accomplished, additional steps will be needed to ensure the improved law takes effect.

This initiative to reform the Labor Code is laudable and may have resulted in some progress, but several of the proposals either do not exist or do not function effectively. Legislative reform, while advantageous, does not seem feasible in the short term and even if passed may still suffer from inadequate enforcement, like other fundamental labor rights now codified in Honduras.

Certainly steps toward legislative reform should continue to be pursued, but perhaps combined with a more grassroots approach, which supports the important work of local unions and non-profit organizations advancing workplace rights. These organizations are sometimes referred to as organizations *de base* or from the base of society. Worker rights education and representation would be particularly advantageous. It is clear that having either a lawyer or advocate in the administrative process can improve the probability of success with the Ministry of Labor. An extension of the legal training could also include international labor law and facilitate contacts with non-profit organizations working with corporate social responsibility issues and public campaigns that more strongly encourage compliance. International pressure has resulted in tangible benefits for Honduran workers.

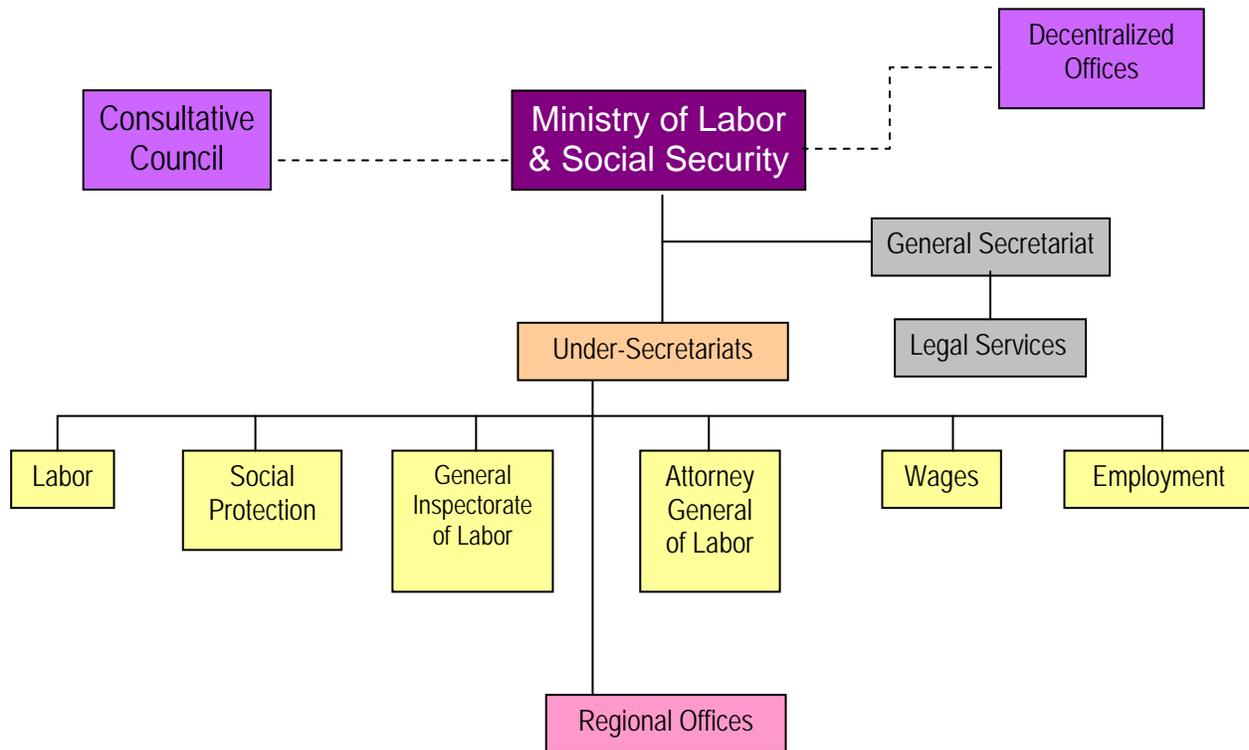
To help shore up alternative legal instruments in support of labor rights, support for private dispute resolution, like that found in collective bargaining agreements that include final and binding arbitration, is a worthwhile investment. Educational programs and the development of pilot projects that advance these voluntary systems do include an enforcement device will relieve some of the pressure placed on the Ministry of Labor and the labor courts. The administrative labor law system realistically will not be able to handle the demand. Therefore, it should be just one prong of multi-pronged approach to advancing fundamental rights for all workers.

3.2 GOVERNMENT INSTITUTIONS

3.2.1 Ministry of Labor and Social Security

Honduras' Ministry of Labor and Social Security is a key player in labor relations, for both the public and private sector. Its organization and functions are defined by the 1959 Labor Code and its own organic law. Despite its critical role and although its leadership is always given to a key player in the governing party faction, the Ministry of Labor and Social Security is a small and inadequately funded body,

FIGURE 4: MINISTRY OF LABOR AND SOCIAL SECURITY ORGANIGRAM



Source: Government of Honduras, Ministry of Labor and Social Security.

The Ministry is organized into a central and 17 regional offices, but not all regional offices are fully staffed with representatives from the sub-units. In smaller offices, staff members may perform several functions. For example, labor inspectors (from the *Inspectoria General*) may also conduct conciliations, but may not do inspections of health violations. Where an inspector specialized in the latter area is not assigned, apparently such inspections are not done.

The Ministry has a number of functions:

- vetting and registration of unions and collective bargaining agreements (CBAs),
- vetting and registration of company by-laws (*reglamentos*),
- establishment of minimum wages (via negotiation through a tripartite commission),
- authorization of strikes or other labor actions,
- conciliation of employer-employee disputes;

- mediation of CBAs (where agreement cannot be reached by the parties),
- provision of employment services,
- workplace inspections and oversight of compliance with labor regulations,
- provision of legal services to employees against private sector employers, and
- representation of the state in its own labor disputes.⁴⁵

The principal offices with their functions are as follows:

- General Inspectorate of Labor (*Inspectoría General de Trabajo*): Responsible for ensuring compliance with labor legislation and rights through periodic general inspections and targeted inspections in response to a specific complaint. Also can recommend fines (subject to the Minister's decision) for violations, give advice to employers, and unions, and calculate severance and other pay due to terminated workers.
- Directorate of Labor (*Dirección de Trabajo*): Responsible for "reaching harmony between the workers and employers and ensuring the adequate application of labor norms." Specifically, vets and registers firm by-laws as they apply to labor relations, registration of unions, registration of CBAs, and conciliates (individuals) or mediates (CBAs) disputes. Can impose fines for minor infractions.
- Directorate of Employment (*Dirección de Empleo*): Responsible for advising and implementing employment policies, analyzing the labor market, and participating in studies by the Ministry and other organizations related to labor issues. Its most visible role, however, is as the government employment office.
- Directorate of Wages (*Dirección de Salarios*): Responsible for salary policies, especially as regards setting of the minimum salaries. Participates in the annual tri-partite negotiation of the latter.
- Directorate of Social Protection (*Dirección de Previsión Social*): Responsible for policies related to these two themes although its major work seems to be conducting inspections (via its own specialized inspectors) on health and safety standards, child labor, and treatment of female workers. The directorate includes 18 inspectors, but many work in Tegucigalpa (and not only on inspections). Only three regional offices have specialized inspectors.
- Labor Attorney General (*Procuraduría de Trabajo*): Provides legal assistance to workers and defends the state in labor complaints to which it is a party. Also short-staffed. Unclear how the four lawyers in Tegucigalpa or the nine located in other regions decide which worker cases to take on. Thirteen labor defenders (who also work for the state on public employment cases) cannot begin to fill the need. The judiciary's public defender office (with 239 defenders, now representing only criminal cases) has suggested it might expand its attention to labor cases. However, to do so, it will have to increase the productivity of its own employees far above the current 25 cases per defender per year.⁴⁶
- Legal Department: This department, which is separate from the *Procuraduría*, is responsible for final vetting of all internal documents for legality. It represents another step in the lengthy process of registering unions, authorizing strikes, and so on, and to some extent its functions are redundant, as other offices also have lawyers on staff.

⁴⁵ Public sector employees can thus not be given legal assistance by the Ministry, but instead must obtain their own counsel, paid privately or by their unions.

⁴⁶ As discussed in World Bank (2008 forthcoming) this is an extremely low number and thus a problem in its own right.

The Ministry of Labor's Economic and Social Council is the tripartite organization that groups representatives of employers and unions with government. This council advises on labor-related policy matters, such as labor law reforms and minimum wage revisions.

The Ministry also has several decentralized agencies attached to it. The most important are the National Institute for Professional Training (INFOP) (discussed under Workforce Development below) and the Honduran Institute of Social Security (IHSS) (private sector pensions and medical care).⁴⁷

As should be clear from the above discussion, the Ministry's formal role extends far beyond its present capabilities. Generally its offices seem to have resources only for the most basic tasks, with underdeveloped capacity to engage in studies and analysis. The Ministry has developed a global plan to ensure "decent work," but, again, implementation capacity is limited.⁴⁸ The Ministry's efficiency is further diminished by several factors including: patronage appointments, a weak internal monitoring system, complex and overly centralized procedures, and alleged external interference with its operations. The following discussion covers some of the problematic aspects of its most essential functions.

Processes for the registration of by-laws, unions, and CBAs, and authorization of strikes by the *Dirección de Trabajo* are fraught with problems. First, the *Dirección* is understaffed even at the central level and may lack specialized staff in many of its regional offices. As regards many of its basic actions, central understaffing is a problem as most of these activities must be carried out in Tegucigalpa. For example, it appears there are only two staff members working on union registration who averaged about 12 to 14 registrations annually. There has been some discussion of decentralizing these functions, but so far no concrete progress has been made. Reasons for centralization are unclear. There may be fear of more vulnerability to interference in decentralized offices, or possibly this is a means to exercise more control over the results. Even firm by-laws must be vetted and approved in the capital city, and while these are usually not problematic, the exercise serves to further reduce the time staff can devote to other more important functions.

One example of the deeply flawed process is the registration of unions. A procedure which by law should take only one month often extends to over a year. Theoretically, all that is required is a list of the names of 30 employees who propose to form a union and a copy of the minutes from the provisional assembly, signed by the same individuals and presenting the names of the provisional executive board. However, it often happens that the submissions are found to be incomplete, leading to requests for corrections or more information. Sometimes the list of thirty names differs between the version presented in the minutes and the list itself, or the names do not match (or are not accompanied by) official identification. The latter poses challenges because many poor citizens are said to lack a formal identity card and may have to secure one, which is a complex process, in order to appear in the list. Sometimes the list of thirty names is not accompanied by individual signatures. Additional evidence of current employment in the firm may be requested. Requests for correction are often not handled efficiently, but rather sequentially, and each correction takes time. In addition, addressing the issues may require face-to-face interaction with authorities, requiring that a member of the provisional board travel to Tegucigalpa.

⁴⁷ IHSS's services are only available in 80 percent of the country's territory and it is estimated that only about 20 percent of the population is covered by its medical and/or pension services. IHSS pensions have a ceiling of 4,800 Lempiras monthly although employees only contribute 2 percent of their salary. More generous pensions are available through other public sector plans, or through private agencies. It is estimated, however, that IHSS and the public sector plans will all face deficits in the coming years because of the gaps between contributions and promised pay-outs (World Bank 2007). By numbers and size of future payments, INPREMA, which covers the teachers (representing about two-thirds of the public labor force), weighs most heavily on the public budget.

⁴⁸ Called the "*Plan Nacional para la Generación de Empleo Digno*," and enacted in Executive Decree PCM00502007, the plan is available on the Ministry's website.

Once union registration papers are accepted by the Ministry, those individuals whose names appear on the initial list are protected from dismissal by the firm. However, procedural delays can result in the dismissal of organizers before the union is officially registered in the Ministry. Union leaders allege that imperfect safeguards result in names on the list being divulged to employers, though these are sharply disavowed by the Ministry. Once the Directorate of Labor has processed the necessary paperwork, a final vetting by the Ministry's legal office is still required, which further prolongs the process.

According to the ILO, 12.7 percent of employees were covered by collective agreements in 1995.⁴⁹ The Ministry of Labor reports that there were 159 collective bargaining agreements registered 2002 through 2007, with between 24 and 29 agreements added each year. The small number of collective agreements nationwide is indicative of a more widespread problem with collective bargaining. CBAs are generally negotiated between the union and the employer and only involve the Ministry if the two parties cannot reach an agreement. Mediation of such conflicts is conducted locally, but only one was mentioned in the last year in San Pedro Sula. Mediations are handled on an ad hoc basis. The regional coordinator generally chooses someone in the office to sit in with the parties. The few CBAs on which information was shared with the labor assessment team were worked out between the parties without the Ministry's intervention. Interestingly, the registry of CBAs is not maintained in the regional offices, but rather in Tegucigalpa, raising questions of how violations would be tracked locally. Since the recourse to lawful strikes is rather onerous, recognized and unrecognized unions have engaged, successfully, in illegal (i.e., unauthorized) strikes, as a last recourse.

The Directorate of Labor's conciliation services are provided to individual workers. Conciliation is a compulsory step only for public sector workers before taking a case to court. However, private sector employees also use it as it gives them more time to prepare a legal demand, or to reach some kind of agreement with the employer.⁵⁰ Numbers on conciliations conducted vary widely. One Tegucigalpa official noted that national figures for 2005 were 16,000 and for 2006, 3,650, a difference which she deemed nonsensical. The head of conciliation services in Tegucigalpa estimated that 300 conciliations were scheduled each month but that only half that number occurred. This is because employers often do not show up, or if they do, only on the second or third attempt; it is virtually unknown for an employer to initiate the conciliation. Nonetheless, public sector workers need the certificate of conciliation (essentially an invitation to the other party and thus proof that conciliation was attempted) to take their cases to court, and private sector employees can use this evidence of attempted action to extend the time limits for filing judicial cases. As most complaints are about dismissals, staff figures out the amount due for a justified or unjustified termination and then helps the parties reach agreement on what will be paid. As this takes time, and the worker may well not have counsel, the agreement is usually a compromise, and, it is mentioned (Paredes Gámez et al. 2007), is not always enforced. There are few conciliators, 20 to 21 nation-wide with nearly half in Tegucigalpa.⁵¹ In San Pedro Sula, there were two and a secretary who also filled in. Some regional offices have none, but if there is a labor inspector that person may also do conciliations.

Inspections are another critical function of the Ministry and like conciliation and mediation are done locally, although staffing appears to be inadequate. Inspection is done by two offices, the labor inspectors of the *Inspectoría General de Trabajo* for compliance with labor legislation, CBAs, and other obligatory regulations, and the specialized inspectors (for health and safety, and underage workers) from the Directorate of Social Protection. The division is logical; however, both groups are extremely understaffed.

⁴⁹ ILO (1997), pp. 237, 246, 248. Estimates from ILO Regional Office for Latin America and the Caribbean.

⁵⁰ Conciliation "stops the clock" as regards the time limits for filing a legal case. All that is needed for this purpose is the certificate of conciliation as further explained above.

⁵¹ These figures were provided by the head of the office in Tegucigalpa, and like most figures cited here should be taken as estimates.

Currently, there are 80 labor inspectors nation-wide, with 30 labor inspectors based in Tegucigalpa and only 17 in San Pedro Sula, despite the greater demand. The Social Protection inspectors are still fewer in number and completely absent from many regional offices. A proposed law for reorganization of the Ministry of Labor would establish some new departments and also create a unified inspection unit to economize on already-scarce staff.⁵²

Aside from short staffing, some of the weaknesses identified include the following:

- Inspectors are said to be prevented from entering workplaces or from delivering notifications to employers.
- Inspectors will no longer respond to employers' requests, only to workers' requests, according to the *Procuraduría* in Tegucigalpa.
- Inspectors are said to be paid off by the employer to disregard violations or to otherwise take the employer's side in a worker's complaint.
- Employers are sometimes notified in advance about a pending general or targeted inspection, in order to rectify non-compliant conditions.
- When labor inspectors find violations of health codes or under-age workers, they cannot record these directly, but rather must refer them to specialized Social Protection Unit inspectors.
- In addition to their normal inspection work, labor inspectors also perform conciliation, in the absence of staff for this purpose, and carry out administrative duties in the smaller regional offices.
- By their own admission, inspectors receive inadequate training to do their work properly. When provided as evidence for court cases, their reports are found to be poorly prepared and insufficient for that purpose.

While the inspectors interviewed by the team were apparently qualified and serious about their work, it appears that many of the above-stated critiques are valid. On the basis of the time allowed for field work, it is impossible to estimate the frequency of the problems listed above or to determine which originate with the inspectors themselves, as opposed to resource and other constraints. When inspectors (labor or social protection) confirm non-compliant situations, the penalties levied are very low – 5,000 to 20,000 Lempiras (US \$250 to 1,000). As the amounts are set in the Labor Code, they can only be changed by law and most probably by an amendment to the code (although it would be worth investigating whether Honduran law allows them to be altered separately). Another change under study would consolidate the two groups of inspectors, creating a single corps capable of auditing all types of infractions.⁵³ As a consolidated body, the inspectors would still be too few in number, but they may be more efficient.

Summary. Clearly, if Honduras is serious about enforcing its labor legislation fairly and providing other necessary services to workers, it must find a way to increase the Ministry's budget, improve the quality of

⁵² USDOL has supported the creation of a specialized occupational safety and health inspection agency in Honduras, under the CERSSO project described in Section 5, because of the special knowledge and skills required. However, there is no international "best practice" for the organization of labor inspection system. While some countries prefer that their labor inspectorates be unified, i.e. integrated across functions, other countries prefer a specialized agency approach. Von Richthofen (2002, 38-43) identifies five major labor inspection functional areas: occupational safety and health, work conditions (possibly including wages), industrial relations, employment-related matters, and social security. He points out that labor inspectorates may be "generalist" (covering multiple functions), adhere to an "Anglo-Scandinavian pattern" (accountable to a bipartite or tripartite board or to a ministerial commission), "federalist" (delegating authority to sub-national governments, or "specialist" (whereby agriculture, railways, mining, etc. sectors are inspected by separate agencies). Piore and Shrank (2008) distinguish between a Latin model of labor market regulation and inspection, based on a pedagogic approach to informing and coaching stakeholders to comply with labor laws, versus a North American model, in which businesses are assumed to be business-maximizers and thus prone to labor law transgressions. Piore and Shrank also note that inspectorates under the Latin system tend to be general or unified, whereas responsibility for inspection in the U.S. tends to be distributed among several, specialized agencies.

⁵³ Again it is not clear whether this would be possible without changing the Labor Code, and if not, given the hurdle that this would pose, it would be best to pursue an alternative.

its staff, and reduce external interference and corruption. Training programs and equipment commonly provided by donors may be of some help, but only around the margins. The larger problem is political will, at the highest levels, and within the Ministry.

Over the shorter run, there are some targeted quick fixes that might reduce some obstacles. Some positive changes, for example greater decentralization of services and possibly the unification of the two sets of investigators, can be done without changing the Labor Code. However, to the extent the very convoluted processes are laid out in the latter, it will continue to be an obstacle, despite its pro-labor, protectionist orientation. Nonetheless, a serious study of real versus legally mandated procedures might help eliminate some unnecessary steps. To compensate for staffing shortages in the shorter run, it may also be feasible to develop partnership with other public and private sector entities, for example, the variety of NGOs doing their own investigations.

3.2.2 Labor Justice System

In Honduras, as is common elsewhere, the courts provide the ultimate and most authoritative forum for resolving disputes over the application or interpretation of law. Except for some issues reserved only for judicial decisions (usually, constitutional and criminal matters), parties often prefer and sometimes are required to use other mechanisms first, for example private negotiation or administrative offices. In the course of deciding cases in accord with existing law, the courts also strengthen the legal framework by signaling how and which laws will be enforced and so providing a disincentive to would-be violators (including the government and private or public rights abusers). This is the ideal outcome – higher degrees of juridical security – but where judges do not apply the law equitably, succumb to outside pressures (corruption, threats, biases toward friends, family, business partners, or different social classes and ethnic groups) or otherwise deviate from legal strictures, their decisions will be perceived as unfair and the rule of law will be weakened. Of course, if the law itself contains biases, judges will not be able to counteract them without themselves operating “illegally.”

Judges are not the only actors in a justice system. Others include prosecutors, police, and the staff working with them, state lawyers (including, but not limited to, public defenders), the private bar, and various public interest groups that may monitor system operations, become involved as third parties in disputes, or otherwise act to influence system operations. Certain accountability institutions (audit agencies, anticorruption commissions) may have overlapping or complementary functions as can state organizations charged with monitoring rights violations (most commonly human rights ombudsmen).⁵⁴ A series of auxiliary organizations, including various kinds of public registries, can also influence the quality of judicial rulings.

Observers generally agree that Honduras’ legal and organizational framework provides an adequate base for a well functioning justice system, in the labor context and beyond. That the system does not function well – either in resolving individual disputes or in reinforcing the rule of law – is due to other factors, most notably continued political interference in organizational operations, poorly qualified and inadequately trained system operators, inadequate checks on corruption, and insufficient or poorly used resources (Due Process of Law Foundation 2007; World Bank 2008). With the exception of police, most core organizations seem to have adequate numbers of staff and sufficient budgetary resources. The judiciary’s constitutionally guaranteed earmark of 3 percent of the public budget is in fact high (for the region and universally), and its 10.6 judges per 100,000 inhabitants are above the regional average.

⁵⁴ Honduras’s anticorruption commission and human rights ombudsman are generally regarded as fairly ineffectual, because of legal limitations on their powers and some apparently self-imposed restraints. Neither has been active in enforcing labor rights. The Honduran Tribunal of Accounts (supreme audit agency), while reconstituted to increase political control of its actions, has recently overcome those restrictions and begun to investigate various forms of corruption, some of them affecting labor relations in the public sector. It is, however, not a protector of rights, but rather of public resources.

Statistics provided by the judiciary indicate an average caseload per judge at the lowest range for Latin America. Latin American courts, with smaller shares of the national budget or GDP, substantially more work, and fewer staff, can and do perform much better (World Bank 2004).

Complaints about poor judicial and system-wide performance have been voiced in Honduras for several decades and have inspired constitutional and legal provisions to address the problem. During the 1970s a judicial career law was enacted in an effort to ensure judges were selected by merit and enjoyed tenure while serving in good faith. The law was never implemented in its initial or amended (1980) form, and a third version is now under consideration by the Congress. The 1982 Constitution contained several provisions aimed at enhancing judicial independence, especially as regards the means for selecting the Supreme Court and other judges and the provision of the budgetary earmark. Constitutional amendments enacted in 2000-1 strove to strengthen these provisions by lengthening Supreme Court terms (thereby ensuring that each new administration would not select its own court), modifying the means by which justices would be nominated and selected, creating a Judicial Council to oversee lower level appointments, enhancing the constitutional jurisdiction, and allowing the Court to submit its budgetary request directly to the Congress without prior vetting by the executive. Since 1980 a series of laws has also been enacted to strengthen other system institutions – the Public Ministry, responsible for prosecution, and the police, in particular.

Analysis. This refinement of the legal and organizational base has unfortunately not produced the promised improvements to system operations. Selection of the Supreme Court and thus of the lower level judges and administrative staff continues to be highly politicized. Each of the 15 justices is identified with one of the two traditional political parties, and many of the Court's decisions are criticized for their overt political content (Due Process of Law Foundation 2007). As a new Court will be chosen in 2009, there are many proposals in circulation for how to improve the process (Paredes Gálvez et al. 2007). Because lower level judges owe their appointments to the justices, they are believed to be influenced by the latter's preferences. Moreover, since they are not selected for merit, there are allegations that many are inadequately prepared, and that they and others are easily tempted to sell their judgments or otherwise provide favors to one of the parties. Most of these problems also extend to the other core sector organizations (prosecutors, defense, police), but as they are usually not involved in labor cases they are not addressed here.

Judicial performance is also affected, for the most part negatively, by actions of many members of the private bar.⁵⁵ Many attorneys, both private and public, are poorly trained, but skilled in introducing dilatory motions, which judges seem reluctant to discourage out of hand. Procedures for accreditation are formalistic, and bar associations do not monitor their members' performance. It is reported that some lawyers make arrangements with courtroom staff to accelerate or slow attention to their cases and they are, of course, the ones most likely to offer bribes or threaten intervention by political and judicial leaders. Since most cases require legal representation and there is little pro-bono work and a dearth of publicly subsidized counsel, most of Honduras's poor majority have little chance of getting their day in court unless they are defendants in criminal or civil cases where lack of adequate or any counsel weakens their chances of a favorable judgment.

Since the 1959 enactment of the Labor Code, Honduras has had a specialized labor jurisdiction with its own procedures, and more recently, with its own judges. As there are still only ten first-instance labor judges (of whom, four are in Tegucigalpa, another four are in San Pedro Sula, two in La Ceiba, and one in Cortez), cases heard in other court districts are dealt with by general jurisdiction (mixed judges). In still smaller population centers, they may first be seen by justices of the peace, only some of whom are

⁵⁵ We would stress that the lawyers with whom we spoke all seemed both dedicated and knowledgeable, but the general impression as conveyed in other reports (Roig et al. 2006, Crosby and Guttman 2007, Due Process of Law Foundation 2007, Paredes Gaméz et al. 2007) suggests enormous problems with the private bar as regards both competence and ethics.

lawyers (Crosby and Guttman 2007, fn 19). The number of dedicated judges, or even the use of mixed judges or justice of the peace, is arguably a lesser problem, as the major cities are covered, and even there the caseload is not large.⁵⁶ Moreover, many cases are abandoned by the parties, either for lack of interest or because an extra-judicial agreement has been reached. Thus, the First Labor Court of Tegucigalpa which reports a backlog of 7,000 cases, shared by two judges, seems relatively complacent about the numbers, figuring that many of these cases went inactive some time ago and will eventually be closed without any further action.⁵⁷

The low caseload is not indicative of the potential demand, but rather of the perceived difficulty on the part of workers of getting a satisfactory resolution within a reasonable period of time. Over the past few years, average times to first instance judgments have been reduced and are currently reported as 4-6 months in Tegucigalpa. Appellate decisions are said to take only 30 to 40 days, but if a case goes to the Supreme Court, it may take years to be handled.⁵⁸ It bears mentioning that the first instance and appellate labor courts in Tegucigalpa are well organized, keep track of their workloads, and do not show signs of visible stress, in sharp contrast with appearances observed in Tegucigalpa's civil courts.⁵⁹ Quite probably USAID's Regional Labor Justice Project can take some credit for the labor courts' emergence from chaos, but the Supreme Court has also been encouraging greater order in all jurisdictions.

Aside from time, several other impediments to court use are faced by workers:

- Lack of familiarity with the processes and with judicial operations as a whole;
- Need to have legal counsel and the scarcity of pro-bono or state services;
- Perception that employers with their better paid counsel and likely good contacts with political authorities (and judges) will be favored;
- Inability, if they are even aware of the possibility, to afford the costs of appeals;
- Fear that taking a case to court will get them on an employer's blacklist.

As far fewer workers have contact with the courts than with the Ministry of Labor, it is difficult to get a good sense of "typical" experience.⁶⁰ Recourse to the courts is fraught with problems. There is a widespread perception that employers tend to win in court and that the best outcome for a worker inevitably involves a negotiated award -- less than due, but better than nothing. It was also commented that lawyers, even on the worker's side, add to the problems by stringing out cases unnecessarily. Additionally, the Labor Code allows lawyers and judges to use the Civil Procedures Code as a backup to the labor procedures, and as both tend to be more familiar with civil cases, they often add details not required by the labor legislation. This means that a process intended to be conducted orally and expediently may become largely written and drags on unnecessarily.

For all this trouble, most cases taken to court by workers involve payments due to individuals for dismissals, usually with a complaint that the dismissal was unjustified (and thus requires larger payments

⁵⁶ An average in 2006 of 29 cases entering per judge each month and 19 judgments rendered, based on statistics provided by the Supreme Court.

⁵⁷ A court of first instance is a court in which trials take place, as distinct from appellate courts. First-instance courts are numbered.

⁵⁸ Sources in Tegucigalpa report that times there have been reduced to "only one year."

⁵⁹ However, even Honduras's civil courts, among the most "congested," do not have an extraordinary workload. In fact the average workload per judge throughout the system is possibly the lowest in all of Latin America.

⁶⁰ While the judiciary keeps statistics on caseloads and even calculates time to disposition, it does not record the direction of judgments in its database -- thus determining the outcome of cases would require reviewing a sample of actual case files.

from the employer).⁶¹ Workers generally do not request reinstatement, although this is increasingly common for public employees and accounts for the larger workload and backlog of the first labor court of Tegucigalpa. Records from that court show that in the year that a national administration changes, the number of cases filed increases nearly twofold. We were also told that workers increasingly win cases for reinstatement, which may alter the traditional practice of widespread firing when a new government enters office. Another factor here may be the costs of terminating a worker. As reported in the World Bank's *Public Expenditure Review* (2007), this has also been a consideration as regards encouraging early retirement of civil servants.

We found records of a few other cases (judges estimated their incidence as 5 percent or less) filed by groups of workers. One example involved workers' efforts to seize and sell assets left by a *maquila* firm that had disappeared over night (Paredes Gávez et al. 2007). Although the firm had rented its installations, it left behind the machinery that it had owned. As the workers seized the machinery (illegally), it took only 9 months before they received an amount equivalent to roughly 75 percent of what they were due. The case was still pending as of late 2007 owing to problems in identifying the party against which the action would be filed (*curador ad litim*, or legal representative). This problem originates in the inadequate system for registering companies, their owners and managers, and in owners' tendency to hide their identity. It bears mentioning that the workers did not limit themselves to legal actions. Once they realized what was coming they occupied the factory and undertook a series of public protests. They were also aided by a number of CSOs, and it probably did not hurt that several international corporations were buyers from the firm.

Convuluted bureaucratic requirements are a further impediment to resolution of dismissal complaints. In mid-2006 the requirements for naming the representative (*curador*) changed, and plaintiffs were asked to provide additional information from the company registry (*Instituto de Propiedad*). In the case above, the process was complicated because the firm that had disappeared had been subcontracted by another Honduran company. While the Labor Law clearly stipulates shared responsibility, the judge seemed unwilling to operate on this principle. Finally, although the judge overruled many of the dilatory practices, he admitted the motions thereby adding to delays. In spite of the delays, this case was more open-and-shut than the more common dismissal cases. In the case of the latter, the issue of unfair dismissal is harder to substantiate, whereas in the former, the question is not whether and how much was due to the workers, but rather who would pay. In unfair dismissal, it is hard to get evidence – other workers may be unwilling to testify and reports provided by the Ministry of Labor's inspectors are often inadequate.

Despite the frustrations encountered by this and other types of collective actions, they appear to constitute a more efficient and effective use of the courts. Courts in some countries – Colombia, for example, but also Brazil – are currently seeking ways to turn related individual disputes into collective actions.⁶² These judiciaries have been able to make these adjustments without changing the law, but their judges have had to confront powerful political and economic elites. Still, for judiciaries fearful of the consequences, it should be noted that the Colombian and Brazilian courts have improved their public image as a result.

A still more effective use might be to take a few employers to court for violation of labor rights, but it is not evident whether this is possible under Honduran law. While the rights are guaranteed constitutionally

⁶¹ For a dismissal for cause the worker is only entitled to payment of the 13th and 14th month bonus (pro-rated if less than a year has gone by) and vacation (also pro-rated). An unjustified dismissal also includes back pay from the time of dismissal until the case is settled, two months for failure to advise the workers of dismissal, and a month's salary for each year employed. Thus much of the debate revolves around whether the dismissal was justified or not, but given the difficulty of establishing what actually happened, here as with the administrative cases, the outcome is usually a negotiated settlement between the parties.

⁶² Colombia's test case is with regard to use of the *inter pares* doctrine to make a ruling in one case applicable to others arising from the same event. Brazil, which like many countries faces hundreds of thousands of redundant filings over inadequate pension payments from the state agency, has taken to batch processing them and using template opinions.

and in the Labor Code, the only existing sanctions may be the minimal fines the Ministry of Labor can levy. If taking a few employers to court is not possible under Honduran law, perhaps it should be. Whether the government would be willing to change the legal framework to allow these actions, and whether the courts could be willing to apply the changes is another question, but even if perfectly fair and increasingly efficient, the courts' ability to discourage labor abuses through handling of individual complaints about back pay is doubtful. Even in Brazil, the country in the region with the most pro-labor labor jurisdiction, it is not apparent that abuses have diminished and the various costs (for the judges, the lawyers, and so on) involved make the entire exercise very inefficient (World Bank 2004).

There are several other targeted changes that might be made or explored as a means of making the current system not only more efficient but also more effective in protecting labor rights and discouraging abuses. One suggestion arising in our interviews and also receiving wider discussion (Paredes Gávez 2007) would require new companies to deposit funds in an escrow account to guarantee some means of paying workers should the company close or disappear. This measure is largely aimed at the *maquila* sector, but it is probably applicable elsewhere. Another idea might be to explore the use of *amparos* (protests of violations of constitutional rights) for some individual disputes. The *amparo* is usually directed to governmental abuses, and in Honduras currently appears to be limited to that end. However, in Argentina, Colombia, and Costa Rica it has also been used against private actors, although not necessarily for labor issues. The advantage of the *amparo* is that it must be decided rapidly, and can result in a temporary injunction or order to pay in favor of the plaintiff. Its disadvantage is that it often congests courts, but Honduras's judiciary is not yet in a situation where that should be an issue. Even if legally possible (which is more likely for public workers, who would be making claims against the state), it is not clear that Honduran judges would react well to such an experiment, but it is also worth pursuing. More training for judges and lawyers in labor procedures, to discourage them from going to the civil procedures code for guidance, might also be useful.

Summary. Ultimately, however, the solution for labor and other cases will require attention to the underlying problems of political interference, corruption, and insufficient transparency and accountability, not only as regards the courts but all system actors. Donors' past programs have been unable to make a dent in these problems, and some, by providing the sector with buildings, equipment, training, and travel, may actually be counterproductive. They may thus want to consider conditioning future assistance on visible progress in outputs, not just legal or structural change, and ensuring that this progress is adequately monitored and publicized.

3.2.3 Government Institutions Strengths and Weaknesses

Very generally, the organization of the two government institutions covered – the Ministry of Labor and the judiciary – is adequate and staff with whom we met seem generally competent and dedicated to their jobs. The courts as a whole are adequately financed and have sufficient staff. Thanks to the USAID Regional Labor Justice project, courts specializing in labor cases receive assistance in improving courtroom organization, automation, the generation of performance statistics, and training in labor law and courtroom management. The courts have also made measurable progress in shortening the times for processing of labor cases in particular, and are monitoring progress here. While the state provides a very limited supply of free counsel for labor cases, numerous NGOs are involved in this area, and lawyers specialized in this area work closely with unions. All of those interviewed seemed knowledgeable and dedicated, with numerous ideas for improving both judicial and administrative processes.

With regard to the Ministry of Labor, the staff interviewed by the team is, for the most part, cognizant of problems and has ideas as to how to resolve them. Some staff members seem quite willing to go beyond the limits of their job descriptions to get the work done. It would seem that the last few ministers of labor were also aware of the many problems, given that they had taken steps, largely by issuing ministerial orders, to eliminate some obvious problems, caused either by less dedicated staff or by recalcitrant

employers. The proposed new organic law for the ministry contains some very positive changes, although in some cases it may still be overly ambitious. In short, within the Ministry of Labor a core group of professionals seeks to produce improvements and generate ideas for how to do so.

On the negative side, both organizations are impeded by complex procedures set by law and the obstructive practices of those who neither want to improve the legal framework nor make that which exists work. Political interference in the selection of staff and staff operations is an impediment that neither organization can resolve on its own. Finally, there is a tendency among both administrators and judges to encourage conciliation in cases when it might mean that workers would have to sacrifice real, legally guaranteed benefits. Conciliation is fine where the legal rights are ambiguous, but in many of these cases, they are not. Quite probably this is seen as in the best interests of the worker, i.e. to avoid a lengthy process which he or she cannot afford to wait out. That said, the net result is to impede access to the rule of law for Honduras' less well-off citizens.

The more specific problems of the courts are linked to the inadequacies of using individual complaint resolution to address problems of a more systemic nature. Even with the improvements in processing times, the delays are still too long, thereby discouraging individuals from using the courts in the first place and encouraging those who do to settle for less than they are legally due. Two better solutions would be either 1) to use a faster process (i.e., an *amparo*) to resolve individual cases, or 2) to find a way to augment the impact of single decisions, either through the introduction of more collective actions or through the imposition of far greater penalties on violators. A third alternative (Irias Coello 2007) might use the potential offered by CAFTA-DR to take on violators indirectly through pressure on the country.

Since it was mentioned by many interviewees and also in documents consulted, it bears noting that neither the majority of judges or lawyers are adequately trained in labor law. There also is clearly a shortage of trained lawyers to represent workers in court or at the administrative level. Finally, many workers are still unclear as to their rights or how to access them. In short, there remains an enormous need for practical training at all levels, as well as further work to define the labor proceedings and thus discourage the tendency to revert to the much more complex civil procedural code. The latter does not require legal change, but rather a consensus among all the parties as to how the labor proceedings should be handled.

The additional weaknesses of the administrative agencies, and especially the Ministry of Labor, are both structural and procedural. The ministry carries an ambitious mandate, yet is severely understaffed and underfunded. If the Ministry's mandate is to remain unaltered, the government must find a way to reinforce its budget. In the meantime, further expansion of functions in the Ministry of Labor without resource expansion is ill-advised. However, the commitment on the part of the ministry (and the politicians) should be to recruit staff for merit and evaluate them on that basis regularly.

To the extent that it can do so without going to Congress for a new organic law, it is recommended that the Ministry also simplify and decentralize its internal procedures, prioritize its attention, and become more efficient at what it is legally required to do, and perhaps (following the line of Hernando de Soto) trust its primary client, the worker, rather than insist on thoroughly investigating every submission (which in the end puts it on the side of the employer). In the face of budget constraints, the Ministry of Labor could do better with what it has if it set priorities, simplified processes, and focused on the end result – better conditions for the worker.

3.3 LABOR-RELATED ORGANIZATIONS

3.3.1 Worker Organizations/Trade Unions

The labor union movement in Honduras began in the last quarter of the 19th century with the formation of artisans associations, first in Tegucigalpa and later in San Pedro Sula. A more aggressive type of organization (*classista*, in local terms) took shape in the early 20th century in response to the arrival of the banana companies. Both movements grew and then suffered repression under the Carias dictatorship (1932-1949), but gained enormous momentum from the 1954 strike of the Standard Fruit Company subsidiary, the Tela Railroad Company. Unions gained political strength and the strike instigated the passage of the Honduran Labor Code in 1959. After the strike several labor laws were passed that were later integrated into the Labor Code. The right to unionize was codified for the first time during this period.

The 1960s and 70s were a period of ideological tumult throughout Central America, with strong organizing efforts by both peasant, or *campesino*, groups and labor unions. The 1970s and 80s period of regional civil strife was less repressive in Honduras than in El Salvador or Guatemala, but led to repression of the left, which only strengthened support for union dialogue. However, in the 1990s the government's priorities evolved, favoring export orientation over traditional subsistence agriculture. This changed the labor market dynamics, and labor unions have faced a steep learning curve as they have had to learn how to develop regional and international alliances in the face of globalization. The base of union membership was also undercut as privatization of state-owned enterprises also eliminated public company unions.

In Honduras unions are structured by tiers, the first tier being the local union, the next level is the federation, and the confederation is the top level. Most unions are organized in this manner, but there are exceptions, including the *Sindicato de Trabajadores de la Industria de la Bebida y Similares* (STIBYS) and the *Coordinadora de Sindicatos Bananeros y Agroindustriales de Honduras* (COSIBAH), representing beverage industry and banana and agro-industrial workers, both of which are organized on a sector-wide basis. At the first-tier union level, the Ministry of Labor reports 518 unions nationwide with 451 from the private sector and 67 from the decentralized public sector. There are seventeen federations.

Most of the labor movement is organized into three labor confederations, which include: (1) *Confederación Hondurana de Trabajadores* (CTH) (Confederation of Honduran Workers); (2) *Central General de Trabajadores* (CGT) (General Workers' Central); *Confederación Unitaria de Trabajadores de Honduras* (CUTH) (Unitary Confederation of Honduran Workers). There is some discussion in Honduras today about combining these three confederations into one unified confederation. Interestingly, labor organizations in Honduras not only include unions, but also include peasant and popular movements as well. For this reason, the actual union density rate may be lower than estimated above.

The largest and oldest labor federation is the CTH, which was founded in 1964 with a social democratic orientation and assistance from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). CTH unions include: *Federación Sindical de Trabajadores Nacionales de Honduras* (FESITRANH), *Federación Central de Sindicatos de Trabajadores Libres de Honduras* (FECESITLIH), *Federación de Sindicatos de la Industria de la Costura y Similares de Honduras* (FESITRAINCOH), and *Sindicato de Motoristas de Equipo Pesado* (SINAMEQUIP). Internationally the CTH was previously affiliated with the International Confederation of Free Trade Unions (ICFTU) and after its merger with the World Confederation of Labour is now affiliated with the new International Trade Union Confederation (ITUC).

The CGT was formed in 1970 with a Christian Democratic base. Its member organizations are from both the private and public sector. Unions and associations affiliated with CGT include the *Federación*

Sindical del Sur (FESISUR), *Federación Auténtica Sindical de Honduras* (FASH), *Federación Nacional de Trabajadores de Honduras* (FENATRAH) and *Federación de los Sindicatos de Trabajadores Textiles, Maquila y Similares de Honduras* (FESITRATTEMASH). The federation covers workers employed with electric energy plants, water processing, wheat production, fishing, maritime industries, the *Banco Atlantida*, and private hospitals. In addition to unions, the confederation includes several peasant, community, professional, and ethnic organizations as well as representation from the informal sector of the economy. At the regional level, CGT is affiliated with the Confederation of Unionized Workers of the Americas (CSA) and the ITUC.

The CUTH was formed in 1992 and its political leaning is the most left of center of the three confederations. The CUTH includes the *Federación Independiente de Trabajadores de Honduras* (FITH), *Federación Unitaria de Trabajadores de Honduras* (FUTH), *Federación Sindical de Trabajadores Democráticas de Honduras* (FESITRADEH), public sector associations, peasants, and indigenous, informal, and community organizations. Unlike CGT and CTH, CUTH is not affiliated with regional or global union organizations.

Today, Honduran unions continue to exert political pressure, though the union density rate has been declining. There are an estimated 168,000 unionized workers in the private sector in Honduras today, plus an additional group of 70-90,000 workers who are organized in the public sector.⁶³ Total union density, inclusive of both groups, does not exceed 8.6 percent of the economically active population (Ponce Turcios 2008). Unionization has been concentrated in the central development corridor, principally in the departments of Atlántida, Cortés, El Paraíso, and Francisco Morazán.

Among the labor rights issues of concern to the unions are restrictions on freedom to organize, ranging from blacklisting to firing of workers said to be organizing to intimidation of leadership and overt violence. Employer-established (so-called “yellow”) unions are said to exist in the *maquilas*; membership in these is sometimes a condition of employment. Procedural issues complicate and prolong the time required to formally register a union, though unions note that the process works somewhat more smoothly today than it used to. Without recognized juridical identity, free and independent unions cannot participate in collective bargaining with employers. Workers also complain that it is difficult to have working condition violations inspected impartially, i.e. that Ministry of Labor inspectors are biased in support of employers. A labor market issue of concern to the unions is the lack of a pan-territorial minimum wage for *maquila* workers (discussed below).

3.3.2 Employer Organizations

Honduras’ domestic private sector is organized under the umbrella of the *Consejo Hondureño de la Empresa Privada* (COHEP), founded in 1967. It encompasses 62 professional associations representing almost all sectors of the Honduran economy: agro-industry, banking and insurance, commerce, communications and media, construction, education, health, manufacturing, microenterprises, security, and tourism. Member associations of COHEP include the Association of Honduran Manufacturers (AHM, the membership organization that represents industrial parks and *maquila* owners), the Association of Honduran Coffee Exporters, and the Association of Agro-Food and Agro-Industrial Producers and Exporters.

COHEP stresses that passage of CAFTA-DR was crucial for preserving the textile sector in Honduras. It helped to attract foreign investment in agribusiness, packaging, telecommunications, and manufacturing. The agreement is important, as well, for anchoring economic policy in its commitments to the U.S., an important counterweight to policy instability of the past.

⁶³ One of the labor union confederations cited a figure of 350,000, which represents all organized workers plus women’s groups, neighborhood associations, ethnic groups, etc., affiliated with the union movement.

COHEP's chief concerns, articulated to the labor assessment team, are with regard to 1) the size of the informal economy, and 2) workforce development needs. Employers point out that of the 2.8 million employed workers (Table 3), only about 400,000 are employed in the formal sector. Of these, nearly half are public sector employees, including teachers, civil servants, and the army. Most of the rest are employed in the *maquiladora* sector, which receives most of the labor-related attention. COHEP is concerned that few worry about wages, rights, or working conditions for the remainder of the Honduran workforce. Helping to formalize the rest of the economy will ensure that workers in the informal sector are also protected by law.

The second area of priority for COHEP is professional training and education. Seventy percent of the Honduran economically active population is between the ages of 25 and 50. These workers need workforce training to improve their employability. Mentioned by COHEP to be in short supply are computer, English language, and technical (mechanical, electro-mechanical, computer repair, machine and computer maintenance) skills. From 1983 to 2001 USAID financed the construction and equipment of over thirty rural technical training centers. They implemented training curricula based on an older vision, focusing on training young people with limited formal education to become artisans. USAID also acknowledges, in a program description for workforce development written in 2008, that

Basic education must now meet international benchmarks, technical training must be grounded in strong basic education skills to obtain employment and remain employed... [which] requires ... much stronger basic education foundations than most students in technical training programs have received. (USAID 2008)

In order to explore alternative models for professional training and workforce development, a delegation of COHEP and union representatives participated in a joint study tour in the region. The tour opened debate regarding the extent to which workforce development services delivery should be privatized.

3.3.3 Labor Rights and Civil Society Organizations

When workers face labor rights abuses, a combination of both national and international instruments can be employed by national and international civil society and non-governmental organizations to highlight their plights, try to achieve justice, and lobby for reform. National mechanisms already in place are the preferable option for workers when issues arise, while international organizations can spotlight needed issues and reforms when additional leverage is needed to stimulate change.

A number of other government and civil society organizations share with trade unions an interest in workers' rights. The Honduran National Human Rights Commission (CONADEH) was created as a national institution by passage of a 1995 law on human rights. The focus of the commission is on human rights abuses by government authorities and lack of administrative efficiency with respect to enforcement of human rights. The commission is served by 139 human rights officers, of whom 84 percent are based in the field outside of Tegucigalpa. Hondurans who feel that their rights are being abused may report such abuse verbally, by phone, in writing, or via the commission's website. In the case of the April 2008 murder of CTH leaders, for instance, CONADEH asked the National Congress for authority to investigate.

Aside from government, civil society in Honduras is defined broadly to include both structured institutions as well as social movements. Civil society organizations (CSOs) may both compete and collaborate with other political, economic, and social actors in the country. Cruz and Espinoza (2003) cite Salomón's definition of Honduran civil society as including "various social groups such as workers, businesses, journalists, *pobladores*, peasants, churches, professional schools, teachers, students, and the

poor, as well as organizations that work with women, children, youth, the elderly, the handicapped, youth offenders, human rights, citizenship, etc.”⁶⁴ Many in Honduras’ CSO community are represented by the Federation of Development Organizations of Honduras (FOPRIDEH), an umbrella organization that represents over 70 different groups.⁶⁵

Outside of FOPRIDEH, CSOs with a focus on labor-related issues include CDM (the Women’s Rights Center),⁶⁶ CODEMUH (the Honduran Women’s Collective),⁶⁷ and EMIH (the Independent Monitoring Team of Honduras).⁶⁸ These organizations are supported by a number of external development donor agencies, church groups, and regional and international labor organizations. They are particularly active with regard to workers employed in export-oriented industries such as the *maquiladoras* and agro-industry. They provide training for and solidarity with workers, offer investigation and publicity capacity on behalf of worker issues, network with international labor and human rights groups, and connect workers to legal representation when needed.

CDM and CODEMUH are both focused on women’s issues, including domestic violence and sexual harassment at work, occupational safety and health needs of working women (Ramirez 2006), informal and subcontract work by women (and their children), and the work-related needs of women with respect to pregnancy and child care. They also focus on building women’s organizational and leadership capacities, as women tend to be less empowered in the workplace. Women can play significant roles in labor union leadership. However, the role of CSOs as labor-related organizations has not been without challenge.⁶⁹

In addition to CSOs, the National Institute for Honduran Women (*Instituto Nacional de la Mujer de Honduras*, or INAM), an autonomous government-supported body, also focuses on gender dimensions of labor issues, including the problem of women’s underemployment, age discrimination, harassment of women in the workplace, and the particular occupational safety and health risks faced by working women.

International labor organizations are another crucial source of support for labor organizations in Honduras. International organizations that have issued reports on labor conditions in Honduras include the Fair Labor Organization⁷⁰ and the Worker Rights Consortium,⁷¹ as reported on by the Maquila Solidarity Network, Oxfam International’s Make Trade Fair, and others. In many instances, connections to external NGOs such as these provide key leverage to local worker struggles. For instance, in the days leading up to passage of the CAFTA-DR agreement, the National Labor Committee’s (NLC) campaign highlighted labor rights issues at Alcoa’s El Progreso automotive wiring harnesses manufacturing plant in the El

⁶⁴ Curz and Espinoza (2003, 4), citing L. Salomón, *El Poder Legislativo y la sociedad civil* (2001).

⁶⁵ USAID helps to support FOPRIDEH and another civil society organization (CSO) coalition, the Civic Movement for Democracy.

⁶⁶ See <http://www.derechosdelamujer.org/>

⁶⁷ For an Oxfam case study on CODEMUH’s work, see Tórriz (2008).

⁶⁸ See <http://emihonduras.org/>. According to Tórriz (2008), EMIH was founded by CODEMUH, the Committee for the Defense of Human Rights in Honduras (CODEH), Jesuits of the city of El Progreso, and other NGOs and unions.

⁶⁹ Tórriz notes, “On numerous occasions, the Ministry of Labor refused to see the leaders of CODEMUH and the reaction of plant owners and public officials was that they only talked to the unions, as these were the official representatives in the tripartite commission of ILO” (2008, 14).

⁷⁰ See the FLO’s 2005 *Annual Public Report* for a third-party complaint investigation regarding the Gildan Activewear factory in San Pedro Sula, Honduras.

⁷¹ The WRC became involved in a struggle on behalf of workers employed by the Canadian firm Gildan Activewear; see <http://www.workersrights.org/Freports/Final%20Update%20Report%20on%20Gildan%20Activewear%209-27-06.pdf> and <http://en.maquilasolidarity.org/en/gildan>.

Porvenir export processing zone.⁷² Denial of rights to organize to Honduran workers (after relocating from Mexico in the wake of an organizing campaign there), harassment of workers, under-payment, and denial of promised bonuses were among the alleged abuses. Campaigning against “the Wal-Martization of ALCOA,” the NLC connected fired union organizers in Honduras with representatives from the U.S. United Steelworkers Union, who in turn pressured members of the U.S. Congress to write to Alcoa’s chief executive officer to reinstate the fired workers.

3.3.4 Labor-Related Organizations Strengths and Weaknesses

Honduras has a relatively strong union movement, despite the ineffectiveness of the Ministry of Labor at enforcing the Labor Code and the inadequacies of judicial relief for labor law violations. Public-sector unions fortify the weaker unions in the private sector. Honduran unions offer their members a variety of benefits, in addition to enhanced remuneration, including access to health care clinics, reduced price food coops, scholarships for children of union members, low-interest loans, and legal advice and representation. With such a large percentage of the population living on the margins, these benefits can improve the quality of life for many Honduras who live in poverty. The ILO promotes “decent work” as the heart of social progress and unions can be one of the most effective means of improving the quality of work while promoting the value of participatory democracy. Unions also play a vital role in pursuing labor law enforcement on behalf of their members, particularly important in light of the weak administrative system. However, dwindling union density undermines the strength of unions. Greater union transparency, particularly at the highest levels may help, as will targeted labor law reforms, but there is no substitute for strength in numbers. Sector-wide organizing, which is very limited in Honduras, but successful, may be one approach to bolster union density.

In their broadest membership configuration, union confederations include a wide cross-section of Hondurans (women’s groups, ethnic groups, neighborhood groups (*patronatos*), peasants, and others). This helps to increase their numbers and thus their overall strength, which is a good thing, but also makes it more difficult for them to arrive at consensus on political positions. Nevertheless, Honduras provides an interesting example of labor unions that seek alliances with, and thus presumably advocate for benefits on behalf of, a broader cross-section of Honduran society.

The relationship among labor, employer, and labor-related civil society organizations in Honduras is extremely unbalanced. Where private sector representatives in the well-connected COHEP and AHM have easy access to lawmakers and decision-makers when seeking support for a desired reform or assistance with an impediment to business, labor representatives not only have weaker access, they frequently contend with obfuscation, harassment, outright denial of rights, or violence as they attempt to engage their rights. Although opportunities for tripartite consultation exist both officially, within the Ministry of Labor, and in less formal settings (for example, through the CIMCAW project, albeit a rather timid presence in Honduras), confrontation rather than collaboration seems to be the operative rule in Honduras. Such confrontation rarely takes the form of job actions (legal or illegal), however, given the intimidation that occurs.

Finally, labor-related CSOs would appear to be an under-utilized resource in the arena of labor-related organizations. In some ways, they must compete with unions themselves for attention and support from international organizations. In addition, they have no standing in the formal tripartite arena of government, unions, and employers. Yet they represent a capacity for analysis, training, and local and international advocacy that may be less intimidating than unions to employers in the current climate and thus should be considered as additional potential allies on the labor front.

⁷² The NLC has investigated Alcoa’s wiring harness manufacturing operations in Honduras quite closely, see <http://www.nlcnet.org/article.php?id=517> for information on the Alcoa Campaign.

3.4 LABOR MARKETS IN HONDURAS

3.4.1 Labor Market Structure: Supply, Demand, and Employment

In general, labor supply exceeds labor demand in Honduras, although demand for workers with specialized skills (e.g., specialized machine skills, maintenance and repair skills, computer skills, etc.) remains unmet. Although formal unemployment is low (see below), underemployment is recognized to be significant. The U.S. labor market, with its much higher wage structure, thus is a strong pull on Honduran workers, particularly those from rural areas. However, employers note that even though many Hondurans leave the country in search of work, there are always new workers arriving in the cities from rural areas.

Labor markets are comprised of formal, informal, and self-employment in urban and rural settings, and across agriculture, industry, and services sectors. Participation in the informal economy, characterized as “fluid, highly adaptable and remarkably resistant to integration into the formal economy” (GFI 2008, 1), restricts workers’ access to social services (e.g., training), social protection (e.g., health care), and labor rights. Figures characterizing Honduras’ labor market structure are presented below (Table 3). Three-quarters of Hondurans are considered to be of working age, of which just over half are economically active and of whom over 95 percent are working or actively seeking work in one way or another. Of those working, 48 percent reside in urban areas and 52 percent in rural areas.⁷³

With responsibilities for reproduction, child care, and household management falling disproportionately on women, their rate of participation in the labor market (35 percent) is significantly below that of men (65 percent) in Honduras. In the countryside, women’s participation rates are far lower (26 percent) than in the cities (40 percent).

Of Honduras’ 2.8 million employed workers, only two-thirds are fully employed. The rest are considered “underemployed,” either “visibly” (125,000 workers), i.e. the individual works fewer than 35 hours per week, or “invisibly” (880,000 workers), i.e. the worker earns below minimum wage, or unemployed (85,000 workers). Children (ages 10-17) and youth (ages 18-30) comprise 12 and 34 percent of the employed workforce, but account for 19 and 54 percent of the unemployed, respectively.

Employment is concentrated in agriculture, followed by commerce/tourism. Industry and personal services share third place (Table 4). Although the share of employment in industry has declined, the number of employed has grown slightly from 382,000 in 2001 to 400,000 in 2007. The share of agricultural employment, which includes both private and commercial farming, has been growing. Reportedly, however, one effect of the 1998 Hurricane Mitch⁷⁴ and rural underdevelopment in general has been to shift labor, particularly of men, from traditional and commercial agriculture into the *maquilas*. Whereas the *maquila* labor force used to be 90 percent female, men are now said to comprise around 15 percent of the *maquila* labor force.

The Ministry of Labor’s Employment Directorate manages a placement service across the country. Job seekers are interviewed, tested for job aptitude, and registered in a database. Job seekers may use this database to generate job leads. If job interviews do not lead to offers of employment, training is available through the Institute of Professional Training (INFOP) and other public training centers, schools, and technical institutes, though demand for training is said to exceed supply of available courses.

⁷³ Statistics are from the Ministry of Labor and Social Security’s “Labor Market Observatory” website, September 2007 data, as well as from the *Instituto Nacional de Estadísticas*.

⁷⁴ Reportedly, 85% of the banana crop and 60% of the sugar cane crop were destroyed by the rain and winds; Choluteca, for example, received 36 inches of rain, of which 18 inches fell in one day. U.S. National Weather Service, National Hurricane Center, <http://www.nhc.noaa.gov/1998mitch.html#TABLE2>.

TABLE 3: HONDURAS LABOR MARKET STRUCTURE, BY AGE & GENDER

(millions)	Working Age	Economically Active	Employed	Fully Employed	Underemployed			Un-employed
					Total	Visible	Invisible	
Total	5.722	2.921	2.836	1.828	1.008	0.125	0.883	0.085
Children								
10-11	0.428	0.027	0.026	0.025	0.001	0	0.001	0.001
12-14	0.647	0.119	0.115	0.091	0.024	0.003	0.021	0.004
15-18	0.601	0.211	0.200	0.116	0.084	0.010	0.074	0.011
<i>Subtotal</i>	1.676	0.357	0.341	0.232	0.109	0.013	0.096	0.016
Youth								
18-24	0.992	0.558	0.527	0.314	0.213	0.024	0.189	0.031
25-30	0.645	0.445	0.430	0.284	0.147	0.018	0.128	0.015
<i>Subtotal</i>	1.637	1.003	0.957	0.598	0.360	0.042	0.317	0.046
Adults								
31-34	0.314	0.229	0.224	0.152	0.072	0.013	0.059	0.005
35-39	0.389	0.280	0.275	0.181	0.094	0.013	0.081	0.005
40-44	0.340	0.246	0.242	0.163	0.079	0.012	0.068	0.004
45-49	0.301	0.214	0.210	0.137	0.074	0.010	0.064	0.003
50-54	0.266	0.187	0.185	0.119	0.066	0.009	0.057	0.002
55-59	0.212	0.138	0.135	0.083	0.053	0.006	0.047	0.002
<i>Subtotal</i>	1.822	1.294	1.271	0.835	0.438	0.063	0.376	0.021
Aged								
60+	0.586	0.267	0.266	0.165	0.101	0.007	0.094	0.001
Men	2.704	1.905	1.849	1.141	0.708	0.073	0.635	0.056
Women	3.018	1.017	0.987	0.687	0.300	0.052	0.249	0.029

Source: Ministry of Labor and Social Security (2007b)

Note: Honduras considers children 10 years of age and older as being "of working age."

TABLE 4: BREAKDOWN OF EMPLOYMENT BY ECONOMIC SECTOR

Sector	Share of Total Employment (%)	
	2001	2007
Agriculture	32.6	35.7
Mining	0.1	0.2
Industry	16.4	14.3
Construction	5.3	7.1
Electricity, gas, water	0.3	0.4
Financial sector	2.7	3.4
Personal services	15.6	14.3
Commerce, tourism	23.9	21.4
Transportation & communications	3.1	3.6
Total employed	2.33 million	2.8 million

Source: Ministry of Labor and Social Security (2007b)

The Ministry of Labor is the chief implementer for the National Plan for Decent Work, or PNED in Spanish (GOH Ministry of Labor 2008). Under the PNED, five Investment and Employment Zones are being created, with different minimum wages and energy rates approved. Other components of the plan include a special regime to cover domestic employees, a training program for safe diving by divers along

the northern “mosquito” coast, integrated support to daily coffee plantation workers, a program to reintegrate deported emigrants, among others (GOH Ministry of Labor 2008).

The impact of the introduction of CAFTA-DR on the Honduran labor market was a hotly debated topic, prior to its adoption by the respective legislatures of Honduras and the United States. A free trade agreement reduces tariffs in each of the partner countries. Where tariffs had been highly protective of domestic sectors, the FTA might be expected to reduce domestic employment and wages, as imports can now compete more readily with domestic production. Where tariffs had been highly protective of foreign sectors, the FTA might be expected to increase domestic employment and wages, as exports can now compete more readily with foreign production. In addition to reductions in tariffs – which may take place over a number of years – FTAs may also stipulate changes in investment regulations, services flows regulations (for example, with respect to supermarket chains’ ability to invest locally), and even inter-governmental cooperation (for example, increased assistance from the U.S. Department of Agriculture to ensure that U.S. food safety requirements are complied with prior to export to the U.S.) that may facilitate increased economic integration between the partner countries.

The International Food Policy Research Institute (IFPRI) looked at the expected impact of CAFTA-DR on employment, production, and poverty in Honduras (Morley et al. 2008). They found a more nuanced set of impacts than critics had imagined. On the agricultural side, tariffs for sensitive products – corn, rice, beans, beef, pork, poultry, and dairy – were high prior to implementation of the agreement. Only for white corn will the 45 percent rate of protection remain. For all of the other sensitive products, a gradual phase-down of tariffs will take place, bringing tariffs to 0 percent by the tenth, fifteenth, or twentieth year after implementation. This means that rural employment in traditional agriculture may shrink somewhat, if farmers are unable to compete with imports or diversify into more competitive crops.

However, their economic models suggest that agriculture in general (including commercial agriculture) as well as other sectors of the economy will grow, thereby offsetting the longer term negative effects on sensitive products. The effect of CAFTA-DR on the *maquila* sector is to anchor what had been temporary benefits regarding more liberal textile rules of origin under the 2000 Caribbean Trade Promotion Act (equal to those enjoyed by Mexico under NAFTA). Without CAFTA-DR, the danger of shrinkage in the *maquila* sector threatened employment, especially for the unskilled and still largely female workforce employed in the *maquilas*. The IFPRI team concludes that CAFTA-DR “unambiguously increases the amount of employment for the unskilled and helps the poor in both the rural and urban sectors” (Morley et al. 2008, 45). Such a model assumes, of course, that labor is mobile between rural and urban sectors and that rural workers will have the minimum resources (skills, industrial employability) required by employers in the *maquila* sector.

3.4.2 Wages

Honduran workers’ wages are determined by the interaction of supply and demand on the local labor market. Floor prices, i.e. minimum wages, are set every year by the Ministry of Labor, with concurrence of the tripartite Economic and Social Council that includes employer and worker representatives (Table 5). Different minima are set according to economic activity sector and, in some sectors, size of the enterprise.

A lower minimum wage was approved in 2007, to apply for a ten-year period in five departments (Olancho, Choluteca, Valle, El Paraíso, and Santa Barbara⁷⁵) (Emanuelsson 2007). This wage applies primarily to manufacturing, as activities in certain economic sectors (*inter alia*, agriculture, forestry,

⁷⁵ These departments represent some of the poorer in Honduras. Whereas the national Human Development Index for Honduras was 0.654 in 2004, the HDIs for these departments were: Santa Barbara 0.597, Olancho 0.608, El Paraíso 0.619, Valle 0.649, and Choluteca 0.627 (UNDP 2006).

hunting, and fishing; transport, communications, financial and insurance companies, refining and distribution of petroleum and derivatives, and business services) are exempted. The goal of this policy was to stimulate investment and create job growth in these departments; several union representatives protested that such geographic minimum wage dispersion is discriminatory.⁷⁶

TABLE 5: HONDURAS MINIMUM WAGE, 2008

Economic Activity	Monthly Wage	
	(Lempiras/mo)	(\$/mo)
Business Services		
1-15 Employees	1635.00	86.50
16+ Employees	1895.40	100.30
Departments of Olancho, Choluteca, Valle, El Paraíso, & Santa Barbara (exc. specific sectors)		
1-15 Employees	2462.40	130.30
16+ Employees	2786.40	147.40
Agriculture, Forestry, Hunting, & Fishing		
1-15 Employees	2490.90	131.80
16+ Employees	3120.00	165.00
Non-Metallic Mining, Industry, Construction, Commerce, Hotel & Restaurant, & Communal Services Companies		
1-15 Employees	2761.20	146.10
16+ Employees	3349.50	177.20
Transportation, Communications, Real Estate, Professional Services		
1-15 Employees	3114.90	164.80
16+ Employees	3247.50	171.80
ZOLI/ZIP Enterprises & Metallic Mining Companies	3639.60	192.60
Exporting Agro-Industries	3673.20	194.35
Temporary Import Companies	3914.10	207.10
Rail & Ship Maintenance & Repair, Maritime, Port, Petroleum Refining, & Utility Companies	3774.30	199.70
Financial & Insurance Companies		
1-15 Employees	4046.70	214.10
16+ Employees	4010.40	212.20

Source: Ministry of Labor and Social Security

Note: In July 2008, 1 U.S. dollar = 18.9 Lempiras.

Maquila workers elsewhere in the country are paid the ZOLI/ZIP enterprise wage, i.e. 3639.60 Lempiras, or \$193, per month. This covers an 8-hour working day. The standard work week for work conducted between the hours of 5 am and 7 pm is 44 hours. If instead the hours are worked after 7 pm, considered to be “night work,” the maximum work week is limited to 36 hours per week. Overtime is paid at 125 percent of the minimum wage (first two hours beyond the initial 8, or 150 percent of minimum wage for the next 3 hours). Many factories follow a “4x4” work week, meaning that workers work 4 long days (with overtime), and then take 4 days off. In addition to minimum wage, *maquila* workers may receive transport to and from the factories, as well as a package of bonuses for good attendance, production quality, productivity (piece rates), and a traditional end-of-year bonus (the “13th and 14th month” bonus). The sum of all payments, according to employers, can double workers’ wages above the minimum wage.

⁷⁶ By way of contrasting example, in the U.S. the Federal minimum wage represents a national wage floor, while individual states may (and sometimes do) set higher minimum wages.

Household incomes are derived primarily from salaries, in urban areas, and own-income, in rural areas (Table 6). In rural areas remittances also provide a significant source (11.5 percent) of income.

In order to assess whether minimum wages represent a “decent” or “living” wage, one may compare local salaries earned to local costs of living (and more specifically, to the local poverty line) to determine whether the former is sufficient to cover the basic costs of living of a typical sized family.⁷⁷ In Honduras in 2007, the CDM compared the National Statistics Institute’s basic consumption basket (which does not include the costs of transportation, health care, housing, or clothing) with minimum wages and found that the former exceeded the latter (Mazier and Mazier 2008). For instance, in February 2007 the cost of the basic consumption basket was 148 L, compared with the minimum daily wage of 112 L. Honduran households clearly must rely on more than one wage-earner, and overtime by each, to make ends meet.

TABLE 6: BREAKDOWN OF SOURCES OF HOUSEHOLD INCOME

Income Sources	National	Rural	Urban	Central District	San Pedro Sula
Total per capita Income (Lps./mo)	2,368	1,605	3,160	3,645	3,674
Percentages					
Salaries	42.6	30.3	40.4	54.7	56.3
Own income	36.9	48.3	30.7	27.8	31.9
Remittances	10.1	11.5	0.4	6.1	5.5
Family assistance	5.4	5.9	5.1	4.9	2.8
Pension	1.2	0.6	1.5	2.4	0.8
Unknown	1.2	0.2	1.7	2.1	1.7
Education	0.8	1.5	0.4	0.3	0.4
Special assistance	0.4	0.5	0.4	0.4	0.2
Scholarships	0.3	0.4	0.2	0.2	0.2
Pension	0.2	0.1	0.3	0.4	0.1
Other	0.9	0.8	0.9	0.7	0.1

Source: INE 2007a

3.4.3 Labor Productivity

Maximizing labor productivity is a crucial step in maintaining competitiveness for manufacturing and agro-industrial enterprises alike. Productivity is measured by the value-added generated per worker. Increasing it thus requires either expansion of value-added or reduction of the size of the workforce required to generate the same level of value-added. The latter is a threat to labor, naturally, but laying off workers is not the only option that management can pursue. Increasing output through investment in advanced machinery, attention to industrial engineering, switching to higher yielding varieties or higher value products, etc. can also raise the productivity of an enterprise’s workforce. The tale of two sectors, the competitiveness pressures they face, and strategies they use to cope with them are described in the box below.

⁷⁷ In the U.S., for instance, see the Economic Policy Institute’s “Living Wage Issue Guide,” http://www.epi.org/content.cfm/issueguides_livingwage_livingwage.

<u><i>Maquila sector</i></u>	<u><i>Banana sector</i></u>
<ul style="list-style-type: none"> • High daily & weekly production goals require that workers put in long hours, under often difficult work conditions. • Workers' compensation is based on minimum wage plus production bonuses. • Pressure of production targets in turn leads to high incidence of repetitive stress-related injuries and other ergonomic health problems. • Continuous improvement training under CIMCAW addressed these concerns through discussion of labor rights, economic literacy, gender, & occupational health & safety; too soon to measure productivity returns. 	<ul style="list-style-type: none"> • Field-level yields in Honduras are below those of regional competitors, hence farms push for new varieties and agronomic techniques to increase yields. • Better organization from field to plant to container required to increase processing efficiency. • Unions work with employers to innovate more efficient processes; workers share in profits through collective contract. • International certification as environmentally & labor-friendly producer to sell into fair trade product markets provides significant additional premium.

Source: Field interviews

3.4.4 Pressures on the Labor Market: Migration, Child Labor, Smuggling, and Trafficking

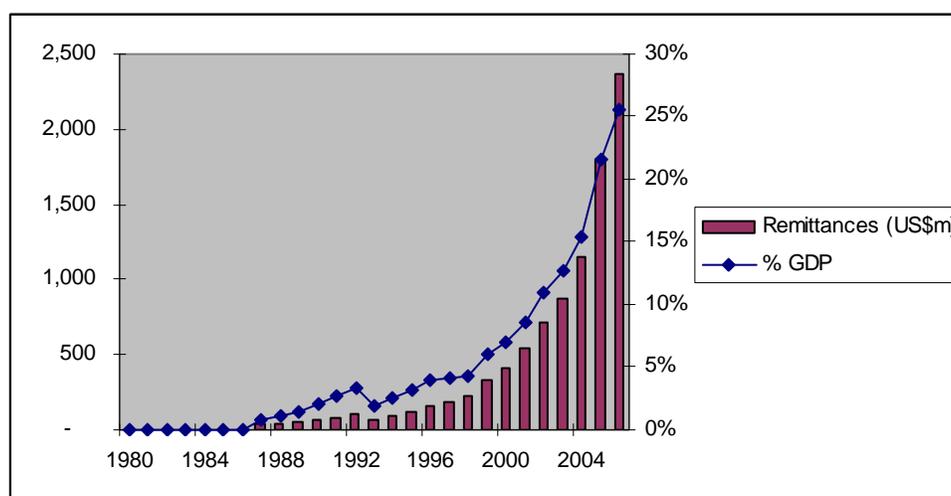
While unemployment is primarily an urban phenomenon (64 percent of the 0.09 million unemployed are urban residents), invisible underemployment is primarily a rural phenomenon (71 percent of the 0.9 million invisibly underemployed live in rural areas). With such a high rate of underemployment, the pressure on rural Hondurans to migrate in search of work – to the city or to the U.S. – is high. The UNDP's 2006 Human Development Report for Honduras noted that the two most pressing reasons for Hondurans to migrate were economic problems and problems of work; insecurity, general disappointment with the country, studies, and having family members abroad were significantly less important (UNDP 2006, 17).

Within Honduras, migrants originate in the southern and western departments of the country and seek work either in the capital or on the Atlantic coast where commercial economic activity is concentrated. More women (54 percent) than men (46 percent) migrate internally; the largest group of domestic migrants have only a primary school education (54 percent). Migrants are less poor than their residential counterparts in their department of origin, but experience higher rates of un- and underemployment in their adopted departments of residence. Rates of internal migration have decreased somewhat from 1988 to 2001, from 7.9 to 4.3 percent (recent migrants only, total rates of migration have declined from 22 to 17 percent) (all figures, Office of the President 2006).

While internal migration has declined, international emigration of Hondurans has increased. The World Bank estimates that 5.8 percent of Honduras have emigrated, to the United States, Nicaragua, El Salvador, Spain, and elsewhere (2008b). Amongst the well educated, i.e. those with tertiary education, the emigration rate is 21.8 percent. Remittances from these migrants have become a huge source of income for the country, exceeding 25 percent of GDP in 2006 (Figure 5). At the household level, international remittances permit households to spend more on investment goods, such as education and housing.⁷⁸

⁷⁸ See Adams (2005) for survey results from Guatemala.

FIGURE 5: HONDURAS REMITTANCES RECEIVED



Source: World Bank (2008b) and World Development Indicators 2008

However, the social impact at home of emigration is not always positive. The *Instituto Hondureño de la Niñez y la Familia* (IHNFA) tells of broken families, children being raised by their grandparents, children even younger than the age of 13 fleeing Honduras in search of their parents only to be remanded back to Honduras,⁷⁹ and youth ages 14 to 17 who also leave in search of work. One observer noted that most Honduran youth have left the countryside. High rates of youth unemployment in turn lead to high rates of out-migration by youth and urban gangs and violence.

The migration story is, of course, complicated by the fact that labor markets in recipient countries are highly controlled. Thus, some share of emigration takes place under gray/illegal (smuggling) or exploitative (trafficking) circumstances, as job seekers risk breaking the law in order to find work outside of Honduras. The country is both a source and transit country for the trafficking of sexual exploitation victims, but is working to comply with minimum U.S. anti-trafficking standards (State Department 2008).⁸⁰

The participation by children in the world of work is another aspect of this issue. The U.S. Department of Labor (2008) points out that Honduran legislation is unclear on whether the legal age to work is 14 or 16 years.⁸¹ A 2002 survey of households revealed that four-fifths of children between the ages of 5 and 17 help out with domestic work in their own homes, while just over 15 percent of this age group work outside the home, more commonly among rural (18.6 percent) than urban (11.1 percent) households and more commonly for male children and youth (22.3 percent) than female children and youth (8.2 percent). Agricultural (56 percent) and commerce/tourism (24 percent) are the two sectors in which children and youth most frequently find employment (all figures, ILO 2004). Girls also work in households as domestic servants. Children may be trafficked domestically, regionally, or internationally for sexual exploitation or for participation in gang activity.

⁷⁹ IHNFA works with returnees to re-educate and reintegrate them in Honduras.

⁸⁰ Honduras is classified by the U.S. Department of State as a Tier 2 country. Tier 1 countries comply fully with the 2000 Trafficking Victims Protection Act's (TVPA) minimum standards for the elimination of trafficking; Tier 2 countries do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance; Tier 2 Watch List countries require special scrutiny either because of a high or significantly increasing number of victims, failure to provide evidence of increasing efforts to combat trafficking in persons, or an assessment as Tier 2 based on commitments to take action over the next year; Tier 3 countries neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance and are subject to potential non-humanitarian and non-trade sanctions.

⁸¹ In any case, factories report that they do not hire under the age of 18, because of international code of conduct standards.

Honduras is a signatory to ILO Convention 182 regarding the worst forms of child labor and its Child Labor Code precludes participation by minors in unhealthy or dangerous conditions. Yet reports were heard of minors employed in undersea diving operations, construction, and in agricultural settings with potential exposure to unsafe practices. The government of Honduras is involved in a number of activities, working with CSOs, international organizations such as the ILO's International Program on the Elimination of Child Labor, and the U.S. Department of Labor, to educate Hondurans, build institutional capacity to work on the issue, and improve access to justice for trafficking and child labor victims.

3.4.5 Labor Market Strengths and Weaknesses

The greatest weakness of Honduras' labor market is obviously the fact that not enough formal sector jobs have been created for all Hondurans who seek work. This pulls Hondurans into cities and out of the country in search of work. Labor mobility in and of itself is a good thing, it helps to re-equilibrate labor markets, but social dislocation for families, trafficking victims, and even illegal immigrants deported from the U.S. can have unintended negative consequences.

One upside of emigration, of course, is that remittances from overseas-based family members can be an important source of household income, especially in rural areas. Some anecdotal evidence suggests that remittances have eased the need to work as cash labor on coffee farms, for instance, and thus decreased the available supply of labor in rural areas. It may also be that rural labor supply is diminished because of out-migration of men and women of prime working age.

The continued presence of available supplies of "excess labor", i.e. un- or under-employed workers in search of jobs, puts pressure on those who are employed to refrain from pushing back in the face of labor rights infringements, unless or until labor conditions become dangerous or completely intolerable, for fear of losing their jobs.

Another weakness of Honduras' labor market is the heavy concentration of demand in the capital and along the northern coast. With diminished demand for labor in the east, west, and southern parts of the country, market wages are likely to be lower than in the zones of heavy demand. The reduction of the minimum wage in five departments is thus an attempt by policy makers to increase incentives for investors to create employment in these less-advantaged parts of the country.⁸² Alternatively, policy makers could have opted for other investment incentives – infrastructure development, energy subsidies, tax credits, and so on – that could also have reduced the cost of doing business in these departments without creating regional formal sector wage disparities.

The continued strength of the *maquila* and agribusiness sectors of the country is, of course, a strength of Honduras' labor market. The fact that the country continues to hold on to a spot among the top ten apparel suppliers into the U.S., despite the upheaval experienced with the ascendancy of China as the world's leading supplier and elimination of quotas under the Agreement on Textiles and Clothing, is a testament to Honduras' continued competitiveness in manufacturing. As manufacturing grows, employers are noting growing skills gaps, and this, too, is a positive sign that the economy is vibrant and diversifying.

⁸² In the U.S., in contrast, the minimum wage is set at a base level, with certain individual states – whose costs of living are higher than the national average – opting for higher minima. Where a worker in the U.S. is covered by both state and federal minimum wage laws, s/he is entitled to the higher of the two minimum wages. As of July 2008 twenty-five states and territories set minimum wages at levels that are higher than the Federal minimum wage.

4.0 THE ROLE OF THE LABOR SECTOR IN OVERARCHING DEVELOPMENT THEMES

Given the array of USG diplomacy and development goals in Honduras (Section 3) and the rich and complex labor sector observed there (Section 4), this section lays out how engaging in labor issues cross-sectorally, i.e. by integrating legal, political, social and economic dimensions, can improve the efficacy of strategic approaches to USG programming.

4.1 GOVERNING JUSTLY AND DEMOCRATICALLY

4.1.1 Rule of Law

Rule of Law (ROL) has been one of USAID's core governance areas and USAID/Honduras has a long history of supporting the development of ROL in Honduras, largely through work to help implement a new criminal justice system. It has also, however, supported general judicial development, especially through strengthening of system and courtroom administration, judicial training, and backing of legal change to enhance independence and professionalism. At present, the major operation is part of a regional project, strengthening the labor jurisdiction, and thus tied to helping Honduras meet CAFTA-DR requirements. The project focuses on improving statistics as a management tool, training (especially of judges and staff in the specialized labor courts), and improvements to court administration (also in these courts). As noted above, there are visible advances in all three areas and also in reducing times to resolution of labor cases.

Rule of law, however, involves more than the efficient and effective resolution of individual cases – it also requires that those who believe their rights to have been violated have access to effective review and that through this process public and private parties are given incentives for future compliance with the legal framework. As we have seen in the labor jurisdiction, as well as in others,⁸³ the Honduran administrative and judicial conflict resolution system falls short in these areas.

As regards access on the judicial side, there is first a problem of the general credibility of the judicial branch, a consequence of continuing politicization of appointments and of decisions. The low litigation rate (demand for court services) and the country's score on various regional and international ranking systems are two indications of this problem which, needless to say, affects more than labor cases. Additionally, many citizen's limited understanding of their rights, how to access them, and the general

⁸³ Due Process of Law Foundation (2007), focusing on corruption and citizen security, in particular.

workings of the justice system continue to impede access. Finally, the very limited supply of subsidized legal services, whether provided by the state, NGOs, universities, or some other source, also discourages clients with limited resources from seeking ways to defend their rights. These problems also affect the administrative conflict resolution services offered by the Ministry of Labor, and are compounded by the ministry's limited resources for carrying out its basic functions and its complex internal procedures.

For both the courts and the ministry, another factor impeding both access and reducing efficacy is the lengthy delays in service delivery to aggrieved workers. Part of this is a result of internal procedures and part originates in the ability of the opposing party (the employer) to create still more delay, either actively or by refusing to cooperate. Finally, as regards the impact on producing disincentives for rule violation, the first two factors (limited access and limited efficacy) combine with a third, the minimal sanctions eventually imposed on the violator, either because rewards are negotiated downwards or because any fine will not top \$1,000.

Labor rights are potentially of interest to a large portion of the population, not only to the small number who currently attempt to access them, but in effect to all workers and employers. Unfortunately, as discussed above, the existing legal framework currently has little impact on their actions and interactions. Thus, reducing the gap between what the law promises and what is actually delivered would be a major step in enhancing the rule of law in Honduras. With the backing of the commitments made in the CAFTA-DR agreement, this is also an area in which the government should have its own reasons for improving the current situation. Doing so will require actions on several fronts – more citizen education programs, either providing more subsidized counsel or waiving the need for counsel in all cases, taking seriously the Labor Code's instructions for the judge to assist the weaker party,⁸⁴ and finding ways to discourage violations more directly – by taking systematic violators to court and/or imposing more dissuasive sanctions on them. None of this discounts the advances that have already been made, but it does suggest that the ROL problem, in labor and in other areas, needs a larger focus – not just on resolving individual conflicts more efficiently, but targeting conflicts that will have a larger impact on encouraging compliance.

4.1.2 Good Governance

Work on good governance, another core area for USAID, has many definitions, but one common thread is the ability of a government to create and implement policies that will be regarded as legitimate by citizens because they are developed transparently, advance the common good, and do not allow resources to be captured by individuals or small groups with special ties to those in power.

As regards areas where they want government to work and as is true throughout the region, Honduran citizens' major concerns have focused over the last decade on three issues – employment, security, and corruption. The order of importance varies over time, but the three are also clearly linked. Insecurity and corruption work against investment and thus employment. Low employment may increase insecurity by driving the needy into crime, and insecure employment may also feed corruption, as another less desirable but viable survival alternative. One could select any of the three as a key to combating the others, but a government's ability to promote more employment under fairer conditions may provide a convenient entry point to the rest. In fact, while citizens show interest in all three areas, recent surveys from Central America demonstrate that unemployment ranks over 20 points above crime as the issue of most concern for the Honduran population (Leggett 2007, 28).

⁸⁴ Pro se representation works in simple cases, but it does require that the courts (or administrative agencies) ensure the unrepresented client is helped to make his or her claim and understands the further procedures while also protecting him or her against opposing counsel's efforts to complicate the issues. As in Brazil's pension cases which pit individuals against a state agency, one solution is to simplify the information required, provide standardized formats, and make sure there is additional assistance for those who still feel overwhelmed.

On the basis of this kind of information, it makes sense to encourage government to focus on the many aspects of the employment issue, not only job creation, but also measures to ensure more job security and fairer working conditions. Unemployment in the end is not just a question of the availability of jobs but also hinges on a widespread recognition of the rules under which jobs will be awarded and retained. Workers who feel more protected in their positions will in turn be able to participate more fully in other aspects of politics, more likely to protest corruption, and engage effectively with the government on issues like security. In Maslow's hierarchy of human needs (1943), basic safety requirements are all closely linked to employment, while the higher order needs depend on the attainment of this first set. In the modern world, where many of the traditional sources of identity and place in a social system have been eroded, work is one of the few remaining anchors from which the individual develops his or her further socio-political engagement. Good governance in Honduras requires more citizen involvement, but citizens made insecure because of the precariousness of their employment situation are less likely to engage productively in community and national political life.

4.1.3 Political Competition and Consensus-Building

Honduras has done well since 1980 in implanting a competitive party-based system for selecting governing authorities, but the inclusiveness of the party system seems to be waning – at least insofar as ordinary citizens perceive it as reflecting their interests. Turnouts in national elections have been steadily declining, reaching about 50 percent in 2005. The current challenge is thus not fomenting more competition, but ensuring that the competition involves focusing on issues beyond “which patron-client network will have control of resources over the next four years.” Further declines in identification with parties and faith in the electoral system as a means of making one's voice heard could lead to instability, the emergence of anti-system movements, and possibly the polarization of a society which until now has seemed relatively well-integrated (Zinecker 2008).

The country is also noteworthy for the many efforts over the past thirty years to form cross-sectoral movements aimed at pressuring political elites to recognize and respond to citizen demands. Before and just after the democratic transition it was not uncommon for business, labor, and civil society groups to join forces to promote good governance reforms. Recent attempts have been more fragmented, divided along ideological lines and tending to be dominated by one or another of the principal sectors. The question is whether the practices of the past could be more successfully revived, if not as a movement than at least as a citizen forum for discussing and trying to reach consensus on major policies and so enhancing their combined input to government decision-making. The more recent less encompassing alliances have had the unfortunate result of creating further divisions among sectors and even within them as well as letting political leaders try to undercut the combined forces by playing one off against another.

Joining in such efforts is a natural role for the three labor confederations, and one they have played in the past. At the confederation level labor has shown an interest in promoting policy choices of broader interest, and while this may at times create conflicts with the immediate bread and butter concerns of the first-tier unions, even those concerns can be translated into generalizable benefits. Labor rights are hardly desired only by unions and there are thus a series of common themes that could be incorporated in a cross-sector forum. This may also be a way of moving beyond the patron-client trap into a focus on public goods and the broader visions their realization requires. This still leaves room for individual unions or other narrowly based organizations to pursue their individual goals, but promotes an environment and a set of rules that allows them to do this more effectively.

4.1.4 Civil Society

Honduras has a vibrant civil society and, as indicated by the latest *Latinobarómetro* (2007), the highest incidence of citizen organizational membership in the Central American region, with only 13 percent

reporting never having belonged to any organization. Whether these are perceived or operate as political organizations remains to be seen, but it appears that participating in organizations is a national cultural trait. Given the crisis of the traditional parties and the weakness of the state, civil society organizations take on a number of important roles – they are a way of making ones demands known, an alternative form of providing basic services, and potentially a means of developing more effective citizen input into the policy-making process.

In the labor sector, two kinds of organizations are important – the unions, federations and confederations representing labor interests, and the series of CSOs that specialize, often but not always in cooperation with the unions, in helping workers navigate the system for understanding and accessing their rights. Arguably, much of the gap in the state structure for enforcing labor rights is currently filled by CSOs – they educate, they provide advice, they agitate, and they provide legal assistance for worker claims. Given the many impediments to more effective performance by the state structures, at least over the short to medium run, working with these CSOs is a useful tactic for donor actions – and over the longer run may be a means of improving the state’s own response. Through their actions these CSOs may also be a mechanism for improving the performance and quality of the unions and higher levels of labor organizations. And finally, as the mid-ground in the three-sector citizen movements, they may provide a means of mediating the conflicts between the other two – labor and business – and so help to forge agreements on future policies in the sector.

4.2 ECONOMIC GROWTH

USAID’s economic growth program focuses on macroeconomics, trade and investment, the financial sector, infrastructure, agriculture, private sector competitiveness (including workforce development), economic opportunity for poor households, and the environment. Four of these themes are particularly relevant here.

4.2.1 Trade, Investment, and Private Sector Competitiveness

Much of the economic growth program in a U.S. trade partner like Honduras focuses on building the capacity of government, businesses, and workers to take advantage of new opportunities afforded by trade liberalization and integration. Though trade and investment, on the one hand, and private sector competitiveness, on the other, are treated as distinct topics in the U.S. Foreign Assistance Framework (FAF), they are viewed here as intrinsically linked and thus discussed jointly.

Building capacity in these areas may involve, *inter alia*, attention to policies and regulations; follow-through on commitments engaged through trade and investment agreements; support for improved trade facilitation and trade standards compliance; deeper understanding of the regional and global markets in which countries, companies, and workers are now engaged; improvements in the enabling environments for businesses and labor; increased capacity of business, labor, and professional associations to engage in discussion and production; and a new focus on workforce skills delivery and workforce systems development.

In today’s globalized economy, even with the preferential access to the U.S. market attributed through the CAFTA-DR agreement, Honduran workers and the companies for which they work compete against workers and companies from almost every corner of the globe to supply goods and services into the large consumer markets of the North America (and beyond CAFTA-DR, also into Europe and Japan). Their ability to compete is determined by the interplay of a host of factors such as costs, production capacity, worker skills, management skills, geography, factory equipment, timeliness of delivery, ports and other trade logistics, value-chain integration, and customization.

On the production floor, for example, assembly line manufacturing requires that machine operators master the use of their equipment and work stations, production lines are balanced for regular workflow, equipment is maintained to minimize breakdowns, tolerable working conditions preserve workers' energy and thus efficiency, line supervisors are trained to watch for personnel or equipment problems that may compromise workflow, communication between workers and managers allows problems to be resolved readily, and industrial engineering systems are in place to measure standard times per worker and per operation in order to maximize output. Time lost to workplace disputes, work stoppages, or strikes compromises factories' abilities to maximize their competitiveness. Thus collaborative industrial relations are a critical dimension of an economic competitiveness strategy as companies and countries seek to take advantage of foreign trade and investment.

Labor conditions themselves have become an element in the competitiveness equation.⁸⁵ Compliance with core labor standards is now viewed as an essential starting point by international companies who source from developing countries, sensitive to the potential for damaging consumer repercussions if labor rights abuses by supplying factories are publicized. In the absence of credible labor sector governance by local institutions, companies support monitoring efforts, either those carried out by their own social responsibility departments or conducted by contracting international or local independent monitoring organizations. Cambodia's garment industry, for example, has established for itself a niche in the global apparel business as a "sweatshop-free" production platform, building on its experience over several years with ILO monitoring of factory working conditions and an independent council to resolve individual and collective labor disputes, as well as Solidarity Center support for trade unions (Wheeler and Salinger 2007). A multi-stakeholder Buyers' Forum, organized by the ILO/IFC Better Work program, brings international buyers and Cambodian and Vietnamese suppliers together regularly to discuss issues of mutual interest, a model that Honduras may wish to consider.⁸⁶ As this issue continues to mature, industries have developed codes of conduct or auditing standards to ensure widespread consensus regarding enforcement of labor standards.⁸⁷

Private sector competitiveness also requires heightened attention to specialized workforce skills. Labor-intensive, export-oriented manufacturing used to be considered a panacea for igniting economic growth in poor, "labor surplus" countries. It is true that the cost of unskilled labor in such countries is low, and this provides an immediate comparative advantage for countries whose labor force is in need of jobs. However, today it is also recognized that as developing countries open their economies to trade, their education and training systems must also prepare youth with the basic numeracy and literacy, language, technical, and management skills required by global industries (Salinger et al. 2006).

Finally, investors seek platforms where industrial relations are not violently confrontational. In some countries, confrontational labor relations between employers and workers has led to property damage, workdays lost to strikes, missed shipping deadlines, personal injury, and even murder. To avoid such risks, a number of countries ban freedom of association in insulated export processing zones.⁸⁸ A program that seeks head-on to improve industrial relations may help support labor rights *and* improve the

⁸⁵ Though observed in practice, this has not yet been acknowledged in the global indicators on competitiveness, which continue to highlight "labor market flexibility" instead, in the World Economic Forum's competitiveness indices and in the World Bank's *Doing Business* indicators. The labor market flexibility indicator – a measure of the ease with which employers can hire and fire workers – has been criticized by both labor unions (ITUC 2008) and the World Bank's Independent Evaluation Group (2008).

⁸⁶ See Rangarajan and Prepscius, "How Better Work Betters Buyers," April 22, 2009, www.betterwork.org.

⁸⁷ Codes of conduct have been established in many industries. See, for example, early apparel industry efforts (USDOL 1996), the electronic industry's code of conduct (EICC 2005), the Social Accountability 8000 standard (SAI 2008), and Chiquita Brands' code of conduct (Chiquita 2008). While faith in such codes of conduct (labeled a "private form of social justice for private gain" by Diller (1999, 100)) to effect meaningful change in labor relations may be "overly optimistic," as observed by a participant at a public review of a draft of this paper in January 2009, others hold that "allowing for a variety of experiments and approaches to see what works and what doesn't, without falling into mutual recriminations, is a more fruitful approach" (Compa 2004, 215).

⁸⁸ For a discussion of the case of export zones and unions in Bangladesh, see Kolben and Penh (2008).

investment climate and enterprise competitiveness. Defining a labor variable in trade, investment, and competitiveness equations that extends beyond limited consideration of “labor market flexibility” with regard to hiring and firing to include the roles of collaborative labor relations and workforce skills/labor productivity in helping to determine competitiveness outcomes would help to address these previously ignored dimensions of labor in economic growth considerations.

4.2.2 Agriculture and Rural Development and Economic Opportunity

While labor rights and productivity are crucial issues for the private sector in general, for agriculture-based rural and marginal populations the challenge of employment creation looms especially large. USAID’s FAF in these two program areas focuses on enabling environment and productivity issues with respect to agriculture, and micro-finance, micro-enterprises, and a policy environment that ensures equal protection for the poor and marginalized.

Adoption of a labor market overview is essential to link these two areas to the broader issue of alternative employment/ livelihoods opportunities faced by rural populations, especially female-headed households, and the wages and other sources of income derived from them. Such an overview is needed to understand the forces that shape the availability of labor in rural areas, the pressures household members face to migrate or emigrate, and the attractiveness of alternative livelihoods (even those that may be illegal, such as gangs, production of illicit crops and drugs processed from them, trafficking, sex-based commerce, and exploitative child labor).

The production, processing, and shipping of horticulture, floriculture, and other non-traditional products are particularly labor-intensive and thus employment-generating activities. Expanding employment in export-oriented agriculture, therefore, especially for the poor, is an attractive notion. However, this export sector, like manufacturing, also requires specialized skills, e.g., knowledge of foreign markets, product development, value-chains, and standards (consumer, food safety, and animal and plant health) and accompanying inspection procedures upon import;⁸⁹ and the ability to deliver adequate quantities on time to the right markets.

4.3 TENSIONS AND SYNERGIES AMONG THEMES

For some, development programs are inherently rights-based, i.e. the fundamental premise of development programming should center on supporting workers’ abilities to exercise their rights. Under this view, labor law compliance is not a question of *interests*, but rather should be adhered to *because it is the law*. Others view the issue of “rule of law” through an additional layer of *stakeholders’ interests*, suggesting that compliance with labor laws can be improved if stakeholders are educated regarding the benefits they will receive from greater compliance. This fundamental tension is not readily resolved, but identifying it may help to clarify both perspectives and contribute to each side’s greater appreciation of the other.

Sometimes the “stove-piped” nature of development and diplomacy objectives inadvertently pits one priority against the other. In designing a development program in the face of limited resources, should we focus on labor rights “or” economic growth? Anticipating these tensions can help to avoid unintended consequences of seemingly contradictory programming. Another answer is to focus on the synergistic relationships between and among labor-related objectives.

⁸⁹ For instance, in early 2008 U.S. cantaloupe imports from the Honduras-based *Agropecuaria Montelibano* were linked to an outbreak of salmonella, and were therefore banned. The U.S. Food and Drug Administration is working with the company on implementation of an inspection program to prepare for reinstatement of exports of melons to the U.S. during the 2008-09 season. Compliance has required significant investment by the Honduran farm in improved irrigation and storage systems. See Karst (2008).

Two particular areas where these tensions and synergies appear in Honduras – the relationship between industrial relations and competitiveness and the focus on rights of formal-sector workers versus the needs of the broader workforce – are noted below.

4.3.1 Industrial Relations and Competitiveness

While labor and industrial relations can be contentious and are often greeted with employer hostility, in a globalizing economy it may make more sense for employers and workers to find areas of common ground to improve their prospects for productivity improvement, market gain, and thus employment growth (or at least stability) in the face of external competition.

For instance, we observed a collaborative model in the banana industry that has resulted in tangible improvements for unionized workers and dramatically improved productivity for business owners. The Coordinator of Banana and Agro-industrial Unions in Honduras (COSIBAH) has been effective at negotiating additional wage improvements that are tied to productivity, representing the first collective bargaining agreement in Honduras of this nature. Management and union representatives have worked together to identify problems with production and inefficiency, a collaboration which has resulted in real gains for both sides. Not only has the business benefited from increased productivity, but by protecting fundamental worker rights, it can pursue fair trade status, attain a market premium for its product, and improve market access and profitability. It should be noted that this approach works until productivity is maximized. Workers may still demand higher wages as the cost of living increases, but employers may no longer be able to sustain those increases unless other sources of profitability gain are identified. By then, collaborative and peaceful labor relations may have been established, and more productive bargaining can take place to identify mutually acceptable solutions.

This type of model lends itself as well to the *maquila* sector, where consumers in developed countries can react negatively to brands that have been tied to sweatshop conditions and workplace violations. Therefore, as in Cambodia, it could be advantageous for plants to comply with fundamental worker rights and market their products as such. However, the lack of a sector-wide union makes negotiations more difficult in the *maquilas*. Company codes of conduct are already in place in many factories, but this could take it one step further.

4.3.2 Labor Rights and Informal Employment

Support for the rights of working men and women in developing countries has taken on a greater sense of urgency, particularly since 1995 when the world progressed rapidly toward liberalization of trade and capital flows under the aegis of the newly created World Trade Organization. Concern that companies would flee home bases not only in search of lower costs of operation, but also in search of more flexible production platforms where labor and environmental standards were either not protected or, if covered by law, not enforced, led to heated public debate about the linkage between labor standards and trade agreements. Over the last ten years, language regarding labor standards in U.S. trade agreements has been strengthened to include cooperative consultations between parties and recourse to formal dispute settlement mechanisms, should contentious labor issues arise.⁹⁰ These protections are available to formally employed workers, who have entered into a legal employment contract with an employer, as governed by national labor law.

Yet in most developing countries these workers represent a distinct minority of the total workforce. For the rest of the workforce, employment in the informal sector may mean lower wages, less regular work

⁹⁰ The first-ever such complaint under CAFTA-DR with regard to labor union rights violations in Guatemala was filed in April 2008 by the AFL-CIO and six Guatemalan labor unions; see <http://blog.aflcio.org/2008/04/24/afl-cio-guatemalan-unions-file-complaint-for-violations-of-labor-rights/>.

(which can also have the advantage of increased work-hour flexibility), and reduced or absent benefits. It most certainly means that the protections of rights afforded by the national labor law do not apply. Working conditions in the informal sector may therefore be more dangerous, riskier to one's health, or more abusive than work in the formal sector. Moreover, jobs in the formal sector offer prospects for regular (and often greater) pay.

The highlighting of such tensions is useful for establishing development program priorities. For the workforce that remains employed outside of the formal sector, ensuring that workers have the skills and enjoy the mobility to take advantage of formal sector employment opportunities is a high priority. Working to expand the pie of formal sector employment opportunities through economic growth programs that are job-creating is another. Finally, ensuring that formal labor protections are actually available to those already nominally covered by the law, and closing coverage gaps (such as with small agricultural enterprises in Honduras) is also essential.

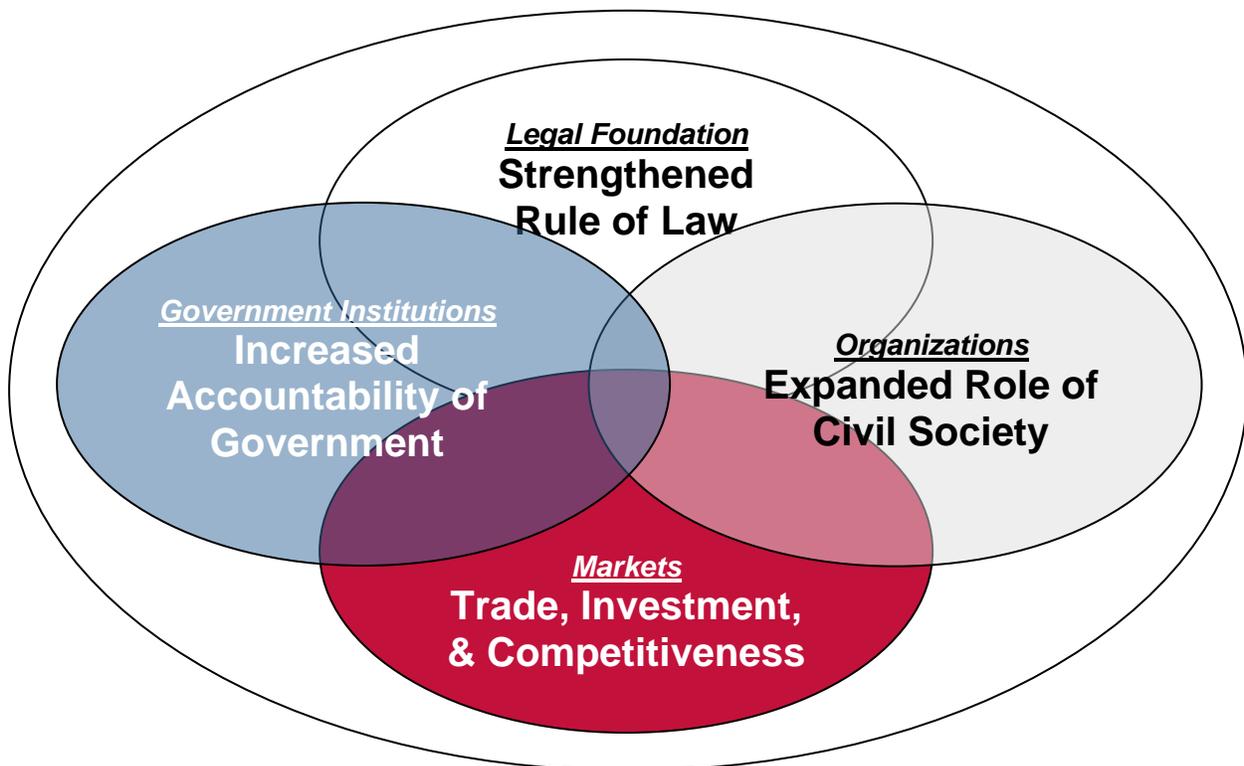
5.0 STRATEGIC CONSIDERATIONS

5.1 FOREIGN ASSISTANCE CONTEXT

To identify strategic considerations for future programming in Honduras requires an overview of the USG program over the past five years.

5.1.1 Current USG Mission Strategy

FIGURE 6: LABOR ENABLING ENVIRONMENT & USAID/HONDURAS PROGRAM PRIORITIES



On average over the last five years (FY 2004 through FY 2008), USAID programs in Honduras have received funding of about \$46 million per year, as seen in Table 7 below. The mission's strategy has focused in three areas: 1) more responsive, transparent governance, 2) economic freedom, and 3)

investing in people.⁹¹ USAID/Honduras' priorities for its 2003-2008 program overlapped with the conceptual framework for the labor enabling environment, in several key areas, as seen in Figure 6.

As part of USAID/Honduras' governance program (8.8 percent of the 5-year budget), two themes have been featured. First, to strengthen the rule of law, USAID has supported programs to ensure implementation of the Criminal Procedures Code and strengthen the independence and ethical conduct of the judiciary. USAID has also supported electoral reforms that allow voters to select candidates directly, rather than via party, with the goal of increasing the accountability of political leaders directly to voters. Second, USAID has also directed improved governance efforts toward increasing the responsiveness of local governments to citizen needs. Municipalities have received capacity building in a range of service delivery areas, e.g. core functions such as financial administration, basic municipal services, and land registration/titling, as well as with regard to citizen participation. USAID also supports decentralization efforts to give municipalities greater say over decision-making, local investment, etc.

In the economic growth area (23 percent of the 5-year budget), USAID/Honduras supports activities in the areas of trade and investment, competitive private enterprise development, and environmental resource management. To facilitate Honduras' commitments under CAFTA-DR, USAID supports activities to strengthen laws, policies, and regulations, as well as policy-related research, that promote external orientation. The mission's program in the private enterprise area focuses on agricultural enterprises, helping them to diversify into higher quality products, improve access to regional and international markets, and increase capacity to respond to sanitary and phytosanitary standards in export markets. USAID/Honduras has also helped to finance increased credit supply to micro, small, and medium enterprises. Improved watershed and coastal conservation and management comprise the core of the mission's environmental resource management program.

The Investing in People portfolio (52.9 percent of the 5-year budget) includes programs to promote health and education reform, improve educational and workforce development opportunities for youth, strengthen primary teacher training, integrate maternal/child health and family planning services, improve food security and nutrition, and control the spread of AIDS and other infectious diseases.

5.1.2 USG Regional Programs

In addition to the bilateral program, the USG also funds a number of regional initiatives aimed at supporting open, diversified, and expanding economies and providing timely humanitarian assistance, when and where necessary, in Central America and Mexico:

- USAID's labor program in Central America, currently implemented by the Solidarity Center, is also managed from El Salvador. The Solidarity Center coordinates with all three labor confederations in Honduras. Solidarity Center organizers provide technical assistance to federations, where they believe they will have greater impact, and to some of their union members directly. For instance, Solidarity Center works (and connected the labor assessment team) in San Pedro Sula, Choloma, Puerto Cortes, and the Sula Valley with union leaders and workers from the *maquila* sector (FESITRATEMASH), the maritime and ports (SIREMAH and SITRAENP), and agro-industry (COSIBAH and SITRAFHIA).

⁹¹ Peace and Security (5.8 percent of the 5-year budget) and Humanitarian Affairs (13.5 percent, but fluctuates greatly, depending on needs) fill out the remaining portfolio, but are not covered under USAID/Honduras' strategic plan.

TABLE 7: USAID/HONDURAS PROGRAM BUDGET

Program Area	FY 2004	FY 2005	FY 2006	FY 2007	FY 2007 Supplemental	FY 2008	FY 2008 Supplemental	Annual Average	FY 2009 Request
	(\$'000)								
Peace and Security			2,424	2,347	-	2,077	6,629	2,695	2,250
Stabilization Operations & Security Sector Reform			2,424	2,347	-	1,333	1,862		1,500
Counter-Narcotics			-	-	-	594	-		750
Transnational Crime			-	-	-	150	4,767		-
Governing Justly & Democratically	5,640	4,662	3,340	2,448	-	3,479	750	4,064	9,664
Rule of Law & Human Rights			613	439	-	-	750		950
Good Governance			2,353	1,730	-	2,379	-		6,644
Political Competition & Consensus-Building			-	-	-	500	-		1,070
Civil Society			374	279	-	600	-		1,000
Investing in People	18,577	19,773	32,477	28,367	-	23,015	-	24,442	22,760
Health			18,111	18,025	-	17,015	-		16,863
Education			11,880	7,828	-	6,000	-		5,897
Social Services & Protection			2,486	2,514	-	-	-		-
Economic Growth	11,357	10,469	10,355	10,402	-	10,620	-	10,641	14,454
Macroeconomic Conditions for Growth			-	-	-	250	-		1,000
Trade and Investment			1,000	1,000	-	2,220	-		3,370
Financial Sector			-	-	-	-	-		1,300
Agriculture			6,531	4,963	-	4,950	-		4,284
Private Sector Competitiveness			-	-	-	-	-		2,000
Environment			2,824	4,439	-	3,200	-		2,500
Humanitarian Affairs	7,450	14,009	677	287	-	-	-	6,220	-
Protection, Assistance, & Solutions			677	287	-	-	-		-
Total	43,024	48,913	49,273	43,851	-	39,191	7,379	46,326	49,128

Source: USAID Budget documents (various years), <http://www.usaid.gov/policy/budget/>

- The U.S. Department of Labor's *Cumple Y Gana* (Comply And Win) project, implemented in all CAFTA-DR countries by the *Fundación para la Paz y la Democracia* and Abt Associates (2004-2008), focused on expanding education regarding labor rights and obligations, extending training to improve labor inspection systems, and promoting alternative dispute resolution. Although the project has drawn to a close, an online labor law resource continues (www.leylaboral.com), providing information on labor laws in each of the participating countries.
- USDOL also financed a regional center for occupational safety and health (OSH) in Central America (CERSSO, in Spanish), launched in 2000 and implemented by Abt Associates and Reducción de Riesgos. The program focused on professional training of OSH professionals, the development of toolkits to measure the return on OSH investments, and public awareness-raising about the importance of OSH issues. Since 2004, the project has converted into a non-profit foundation known as FUNDACERSSO, supported by the Organization of American States.
- Under USAID's Rule of Law Indefinite Quantity Contract, a two-year task order to strengthen regional labor justice institutions was awarded in March 2007 to Management Sciences for Development to build capacity and compliance and broaden access to justice.
- USAID's Continuous Improvement in the Central American Workplace project (2004-2008), described earlier, brought training on labor standards compliance to textile and apparel factories in the CAFTA-DR countries.
- The three-year Mérida Initiative, launched in 2007 to provide USG resources to support Mexican and Central American efforts to counter crime and drug trafficking, includes Central America Economic Support Funds administered by USAID for youth violence prevention and other initiatives (Seelke 2009, 6), while the State Department also administers funds to combat criminal youth gangs (Seelke 2008).⁹²
- The U.S. Department of State supports a two-year initiative in two of the six CAFTA-DR countries, Guatemala and Nicaragua. Implemented by the Global Fairness Initiative (GFI) the PILAR (Promoting Informal Labor Rights) project aims to improve capacity for informal sector data collection capacity and develop strategies to encourage workforce formalization and extend labor rights to the informal sector. As part of this work, GFI has developed a methodology for assessing labor rights issues in the informal sector that may be of interest in Honduras.

5.2 STRATEGIC CONSIDERATIONS

Hondurans are concerned about labor issues, particularly the links between unemployment, corruption, and crime. The last four years have witnessed an important expansion of awareness and institutional capacity in Honduras regarding labor issues. Yet despite the important efforts supported by the USG and international organizations, the wheels of government still move slowly with regard to the protection of labor rights. Industrial relations between employers and workers are still fraught with refusal to acknowledge rights, confrontation and intimidation, and/or violence. Union confederations are multiple and therefore do not always speak with one voice. This translates to workers still facing limited options

⁹² Some observers note that Mérida places too much emphasis on policing and law enforcement, and should instead take a more holistic, community-based approach (prevention, intervention, smart policing, rehabilitation) to the problem (WOLA 2008). USAID's gang assessment for the region concurs with the holistic approach (2006a), citing U.S. cities' positive experiences with community policing, focused identification of gang leaders, and provision of social services and alternative employment and recreation opportunities for vulnerable, but not confirmed criminal, youth.

for addressing workplace grievances. And meanwhile, outside of the formal employment sector, economically active labor either cannot find or do not have the skills to pursue formal sector employment.

When workers face workplace rights violations, they have two choices. They can pursue recourse via the domestic channel: reporting their complaint to the Ministry of Labor, requesting an inspection by the Ministry of the alleged complaint, working through their union (if one exists) or a CSO to get counsel and representation, and taking the case to court.⁹³ Alternatively, they can pursue publicity about their case through international partners, such as international NGOs, international brands, or international union partners.

Given the continued importance of export-oriented industry to Honduras' economy, the Government of Honduras, employers, and workers all have an interest in maintaining the country's competitive profile relative to other global suppliers of manufactures. Maintaining Honduras' competitiveness position therefore requires an active commitment to core labor standards and tripartite cooperation, as well as further progress in making the Ministry of Labor and the judicial system work for workers.

Numerous opportunities exist to integrate labor-related concerns to help achieve USG mission objectives in Honduras in priority areas. The following "points of leverage" are offered either to be addressed directly or to be approached indirectly, strengthened during the course of USAID/USG work in other areas.

Strengthened Rule of Law

To promote rule of law and human rights, labor rights should be considered alongside human and other rights as gateways through which citizens can gain access to the protection of law in an important area that affects their lives and those of their families on a daily basis.

- Reducing the gap between what the law promises and what is actually delivered would be a major step in enhancing the rule of law in Honduras.
- Legislative reform should be pursued in combination with grassroots partners that seek to advance workplace rights.
- Citizens need improved education about their labor rights, so that they can better understand what is happening to them in their workplaces and pursue legal courses of action to resolve disputes.
- Expand training of judges and lawyers in labor law, including international labor law, and facilitate contacts of labor lawyers with national and international non-profit organizations working on corporate social responsibility issues.
- Consensus required among all parties as to how labor proceedings should be handled, to better define them and discourage the tendency to revert to the much more complex civil procedural code.
- The provision of legal counseling for those who cannot afford them, subsidized if necessary, is needed to ensure that the rule of law extends to all citizens.
- The advance of voluntary, private dispute resolution mechanisms would relieve some of the pressure on the Ministry of Labor and labor courts.

⁹³ Pursuit of legal assistance is also possible through the Women's Public Prosecutor's Office (*Fiscalía de la Mujer*) in the Public Ministry (*Ministerio Público*), largely focused on domestic violence prosecution.

Increased Accountability of Government

To promote good governance, expanded capacity of the Ministry of Labor and public dialogue are needed.

- Good governance in Honduras requires more citizen involvement, but citizens made insecure because of the precariousness of their employment situation are less likely to engage productively in community and national political life.
- To improve its effectiveness at enforcing Honduras' labor legislation, the Ministry of Labor's budget must be increased, increases in staffing and further capacity building are required, and external interference and corruption must be reduced. Partnerships with public and private sector groups, such as NGOs, may help to compensate for staffing shortages.
- The Ministry should be encouraged to trust its primary client, the worker, rather than insist on thoroughly investigating every submission.
- Consideration should be given to greater decentralization of services and elimination of service redundancies, such as the streamlining into one unified set of workplace investigators.
- The ability of the poor and marginalized (*los de abajo*) to participate effectively in local governance can be enhanced by strengthening unions, civil society organizations, and local communities.
- Employer fines for non-compliance should be increased in order to strengthen incentives to comply with the law. Alternatively, systematic violators should be taken to court.
- To improve access to justice, three possible solutions: 1) use a faster process, i.e. an *amparo*, to resolve individual cases; 2) augment the impact of single decisions either through the introduction of more collective actions or through the imposition of greater penalties on violators; 3) use CAFTA-DR as a lever to put pressure on the country to address labor violations.
- In order to temper corruption incentives donor programs may consider conditioning future assistance on visible progress in outputs, not just legal or structural change, and ensuring that this progress is adequately monitored and publicized.
- Anticorruption efforts should include a focus on the multiple forms of corruption that exist related to labor disputes.

Less Focus on Political Competition, More on Consensus-Building

The current challenge in Honduras is less about competition, and more about ensuring that the competition involves focusing on issues that matter to citizens. Further declines in identification with parties and faith in the electoral system as a means of making one's voice heard could lead to increased instability, the emergence of anti-system movements, and possibly the polarization of Honduran society.

- Joining in such efforts is a natural role for the three labor confederations, and one they have played in the past.
- At the confederation level labor has shown an interest in promoting policy choices of broader interest. While this may at times create conflicts with the immediate bread and butter concerns of the first-tier unions, even those concerns can be translated into generalizable benefits.
- Public debate over labor rights could lead to common, cross-sectoral themes that focus on public goods and the broader visions their realization requires.

Expanded Role of Civil Society

To expand role of civil society, focus on increasing labor unions' strength and their collaboration with other civil society groups.

- Unions can be one of the most effective means of improving the quality of work, while promoting the value of participatory democracy.\
- Unions play a vital role in pursuing labor law enforcement on behalf of their members, particularly important in light of the weak administrative system.
- To counter dwindling union density which undermines the strength of unions, focus on sector-wide organizing to bolster union density.
- Strengthened connections to a wide cross-section of Hondurans (women's groups, ethnic groups, neighborhood groups (*patronatos*), peasants, and others) increase unions' numbers and thus their overall strength, and encourages them to advocate socially progressive positions on behalf of a broad cross-section of Honduran society.
- Labor-related CSOs represent an under-utilized capacity for labor analysis, training, and local and international advocacy that may be less intimidating than unions to employers in the current climate and thus should be considered as additional potential allies on the labor front.

Increased Investment for Economic Growth and Employment

To strengthen the commitment to the Honduran labor sector of foreign investors and foreign customers working with local companies, research is recommended into several possible areas of policy reform.

- Further investigation should explore whether contractor bond laws, as applied to public works projects in the U.S., might be developed to protect similarly workers of international companies operating in Honduras.
- Addressing issues of legal "alter ego" in the event that companies disappear and re-appear under a new name in order to evade responsibilities to workers.
- Honduras should consider the adoption of the Better Work Buyers' Forum model in Honduras that would meet once a year to facilitate communication among brands, suppliers and their sub-contractors, worker groups, NGOs, as in Cambodia and Vietnam. Such a forum could also help to coordinate and strengthen coherence among international and local monitoring and inspection systems.
- Labor-management cooperation should be advanced in targeted sectors with the goal of augmenting collaborative industrial relations, enhancing labor rights, and improving productivity, building upon examples seen in agro-industry and *maquila* operations.

Productivity and trade competitiveness

To improve productivity and trade competitiveness, workers and employers need to better understand each other's needs.

- Time lost to workplace disputes, work stoppages, or strikes compromises factories' abilities to maximize their competitiveness. Thus collaborative industrial relations are a critical dimension of an economic competitiveness strategy as companies and countries seek to take advantage of foreign trade and investment.

- Workers need “economic literacy” training to understand international global pressures facing their industries and the implications thereof for Honduran market, foreign investors, & labor environment.
- Employers need more training to become sensitized to the needs of their most valuable asset, i.e. their workforces.
- Honduran industries should become more familiar with international codes of conduct and workplace auditing standards to ensure widespread consensus regarding enforcement of labor standards.
- Honduras should carefully evaluate its workforce development system, developing and implementing a strategy to increase productivity and competitiveness through the provision of basic, technical, and management skills required by Honduras’ industries.
- Greater support for occupational safety and health training would improve competitiveness and, at the same, one of labor’s biggest concerns in the workplace.
- Defining a labor variable in trade, investment, and competitiveness equations that extends beyond limited consideration of “labor market flexibility” with regard to hiring and firing to include the roles of collaborative labor relations and workforce skills/labor productivity in helping to determine competitiveness outcomes would help to address these previously ignored dimensions of labor in economic growth considerations.
- The production, processing, and shipping of horticulture, floriculture, and other non-traditional products are particularly labor-intensive and thus employment-generating activities. Expanding employment in export-oriented agriculture, therefore, especially for the poor, is an attractive notion. However, this export sector, like manufacturing, also requires specialized skills.
- Assisting enterprises to achieve fair trade certification would be a strong, market-based reward for those firms that have made real efforts to improve working conditions and work with, rather than against, their workforces to raise productivity and compliance.
- Given that formal employment in most developing countries represents a distinct minority of the total workforce and that the informally employed face lower wages, less regular work, reduced or absent benefits, riskier or more abusive work, and lack of protections of rights afforded by national labor laws, ensuring that workers have the skills and enjoy the mobility to take advantage of formal sector employment opportunities is a high priority, in addition to working to expand the pie of formal sector employment opportunities through economic growth programs that are job-creating. The possibility of applying the GFI tool for assessing informal sector labor rights issues should be explored in Honduras.

APPENDIX A: RESULTS FRAMEWORK

ELABORATION OF A RESULTS FRAMEWORK FOR A HONDURAS LABOR SECTOR PROGRAM: SPECIAL OBJECTIVE FOR WORKER'S ORGANIZATION

Purpose

The purpose of this document is to provide assistance to USAID, D&G Office and the Honduras Mission in the development of a Results Framework based on the COLSA submitted in September, 2008, prior to the coup d'etat.

Results Framework – Overall Considerations

During the course of the Task Order a generalized Development Hypothesis and Results Framework were developed as part of the Programming Handbook, presented in June, 2009. This handbook subsumed lessons learned following a series of country-level labor assessments (called COLSAs) conducted by USAID personnel, contractor specialists and leading academics in the field. Following the Labor Forum in June, 2009, and subsequent analysis by USAID, this RF was modified (see Figure 1). The RF is based on the four components of a “well-functioning labor sector”: legal framework, institutions, organizations and markets. This model serves as the conceptual framework for the suite of technical products developed under this Task Order.

Process for Development of the USAID/Honduras Results Framework

The process of developing a Honduras-specific Labor Results Framework followed a step-wise approach starting with an analysis of the COLSA. Using the Labor Sector Strategic Objective and Intermediate Results (from the Programming Handbook, in blue), customized Sub-Intermediate Results were developed based on the identified constraints, overall conclusions and recommendations of the COLSA. This is provided as **Figure 1**. It also indicates where this broad cross-cutting Honduras Labor Sector Results Framework complements the existing Mission strategy (in green).

From that Results Framework combining global objectives (SO and IR) with localized context (at the sub-IR level, in other words the lower level results necessary to achieve the IRs), analysis of the COLSA indicated a Results Framework that would be based on a specific Special Objective (Mission level), Special Intermediate Results and Sub-Intermediate Results that focuses on Labor Sector Organizations (in red). The transition from a cross-cutting Labor Sector RF for Honduras (hence the Strategic Objective) to one concentrating on labor Sector Organizations (hence a Special Objective) is provided in **Figure 2**, citing specific issues arising from the COLSA.

Figure 3 provides a Results Framework for a Worker Organization focused program in Honduras under the Special Objective, with customized IRs and sub-IRs. Included in this figure are illustrative custom performance indicators relevant to both the Honduras and global RF. FACTS indicators, not included, would be based on the FAF Assistance Objective elements and/or the Missions SO Results Framework.

Note: Labor Sector Organizations refer to the wider organizational matrix of unions, human rights and labor policy CSOs, and employer associations (and in some cases may include political entities). Worker Organizations refer to democratic membership union organizations and their federations.

FIGURE 1. OVERALL RESULTS FRAMEWORK FOR THE LABOR SECTOR IN HONDURAS

STRATEGIC OBJECTIVE: A functioning and balanced labor sector which protects workers’ rights, promotes participation, transparency and accountability as well as broad-based economic growth, incomes and increased opportunities, is in place and sustainable over time.

Illustrative Indicators: For this we suggest the CIRI Empowerment (new version) Index that measure *inter alia* worker rights and protections, freedom of domestic and foreign movement, freedoms of assembly and association.

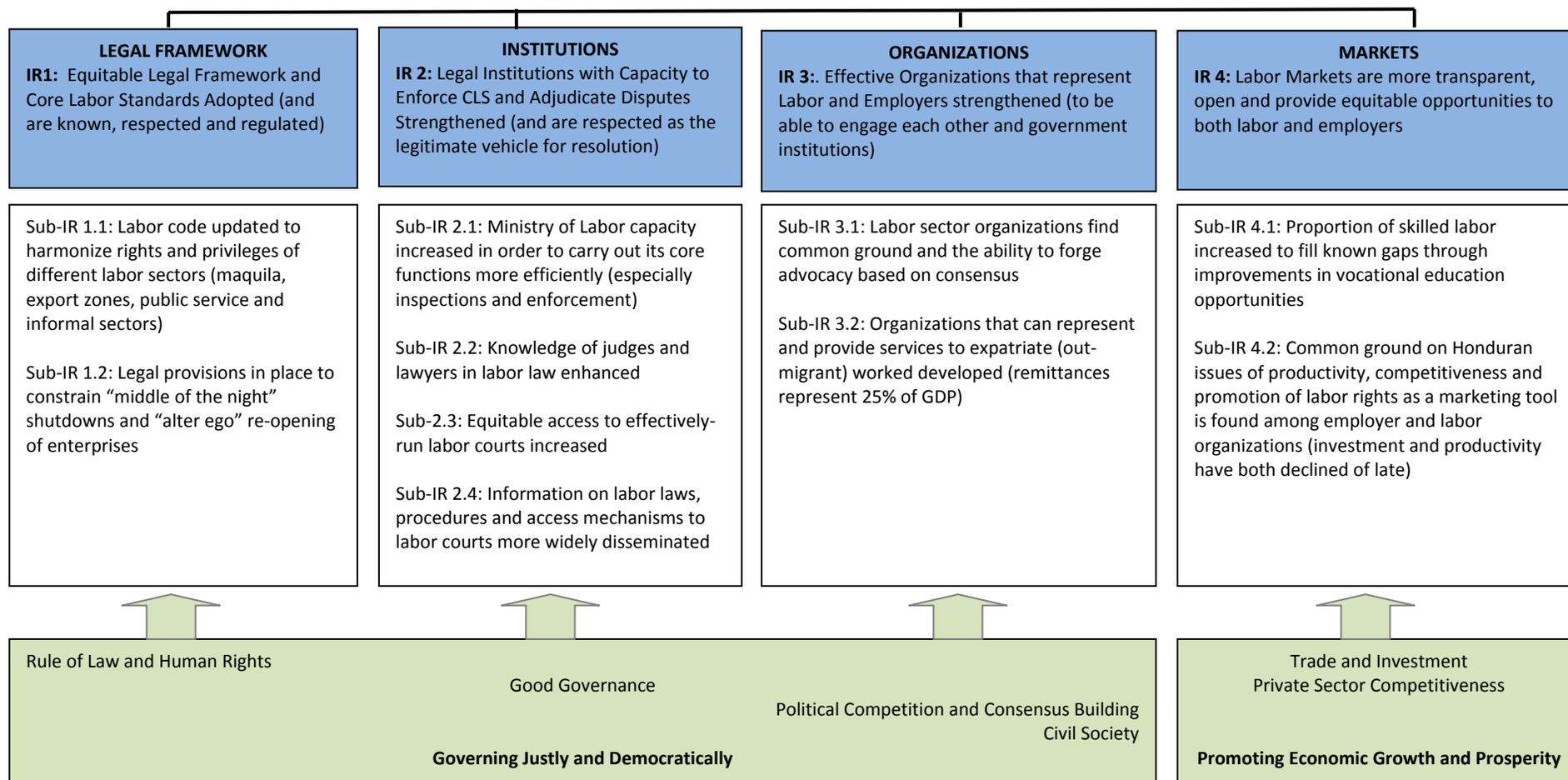


FIGURE 2. TRANSITIONING FROM THE GLOBAL RESULTS FRAMEWORK TO A HONDURAS LABOR SECTOR RESULTS FRAMEWORK

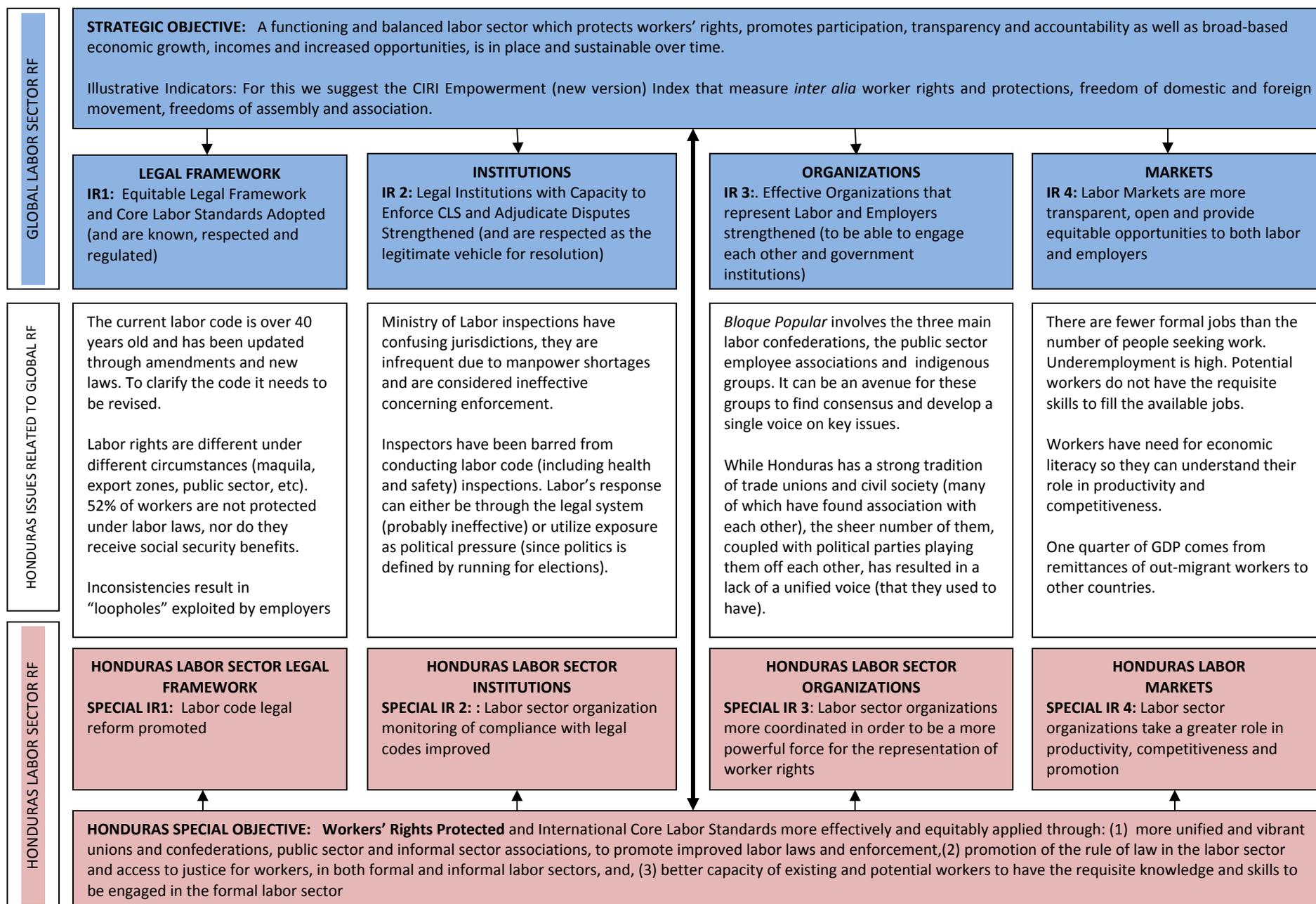


FIGURE 3. PROPOSED RESULTS FRAMEWORK FOR STRENGTHENING THE HONDURAS LABOR SECTOR (THROUGH WORKER ORGANIZATIONS)

<p>HONDURAS SPECIAL OBJECTIVE: Workers' Rights Protected and International Core Labor Standards more effectively and equitably applied through: (1) more unified and vibrant unions and confederations, public sector and informal sector associations, to promote improved labor laws and enforcement, (2) promotion of the rule of law in the labor sector and access to justice for workers, in both formal and informal labor sectors, and, (3) better capacity of existing and potential workers to have the requisite knowledge and skills to be engaged in the formal labor sector</p>			
<p>HONDURAS LABOR SECTOR LEGAL FRAMEWORK</p> <p>SPECIAL IR 1: Labor code legal reform promoted</p>	<p>HONDURAS LABOR SECTOR INSTITUTIONS</p> <p>SPECIAL IR 2: Labor sector organization monitoring of compliance with legal codes improved</p>	<p>HONDURAS LABOR SECTOR ORGANIZATIONS</p> <p>SPECIAL IR 3: Labor sector organizations more coordinated in order to be a more powerful force for the representation of worker rights</p>	<p>HONDURAS LABOR MARKETS</p> <p>SPECIAL IR 4: Labor sector organizations take a greater role in productivity, competitiveness and promotion</p>
<p>Special Sub-IR 1.1: Labor sector organizations find common ground and implement effective advocacy for the recommendations of the "White Paper"</p> <p>Special Sub-IR 1.2: Labor sector organization develop mechanisms to expose "middle of the night" and "alter ego" companies</p>	<p>Special Sub-IR 2.1: Private Dispute Resolution mechanisms developed and piloted</p> <p>Special Sub-IR 2.2: Labor sector organization monitoring and reporting of barring of labor inspectors improved</p>	<p>Special Sub-IR 3.1: <i>Bloque Popular</i> and other umbrella organizations supported to improve coordination in advocacy</p> <p>Special Sub-IR 3.2: Common ground and consensus on select issues by labor sector organizations developed (especially confederations made up of unions and their federations, labor and human rights related CSOs and indigenous groups)</p>	<p>Special Sub-IR 4.1: Worker economic literacy and, knowledge about productivity, competitiveness and international markets increased</p> <p>Special Sub-IR 4.2: Access and opportunity for skills training to meet market needs promoted</p> <p>Special Sub-IR 4.3: Mechanisms for protection of migrant labor rights explored, assessed and piloted</p>
<p>Illustrative Indicators:</p> <p>Number of labor sector organization testimonies to the Legislature on proposals to update and improve the legal code</p> <p>Number of events conducted (and supported by USG) to promote adoption of White Paper recommendations</p> <p>Number of events/activities conducted to expose incidences of "middle of the night" closures and "alter ego" firms</p>	<p>Illustrative Indicators:</p> <p>Number of pilots established</p> <p>Number of cases reconciled through piloted Private Dispute Resolution</p> <p>Number of reports of inspection-barring are publically exposed through the media, CONADEH or international labor-focused organizations</p>	<p>Illustrative Indicators:</p> <p>Number of joint advocacy campaigns implemented</p> <p>Number of new union members enrolled (M/F, by industry)</p> <p>Number of workers, union officials and civil society members trained on labor rights, gender discrimination, worker and employer rights and responsibilities (replication and expansion of the CIMCAW training)</p>	<p>Illustrative Indicators:</p> <p>Number of workers trained in economic literacy (M/F by industry)</p> <p>Number of persons (M/F) provided with skills training to become more employable (by government or the private sector)</p> <p>Number of studies on migrant worker trends, needs and potential protections developed, disseminated and discussed in the labor community</p>

APPENDIX B: CONTACTS

LABOR ORGANIZATIONS

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