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# THE LABOR SECTOR AND U.S. FOREIGN ASSISTANCE GOALS

HONDURAS LABOR SECTOR ASSESSMENT  
EXECUTIVE SUMMARY



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# 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.

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