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

## MEXICO LABOR SECTOR ASSESSMENT

JANUARY 2010

This publication was produced for review by the United States Agency for International Development. It was prepared by ARD, Inc.

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This publication was produced for review by the United States Agency for International Development by ARD, Inc., under the Analytical Services II Indefinite Quantity Contract Core Task Order, USAID Contract No. DFD-I-00-04-00227-00.

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### **DISCLAIMER**

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.



# TABLE OF CONTENTS

<b>ACRONYMS</b> .....	<b>iii</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>v</b>
Mexico's Labor Sector .....	v
Legal Framework .....	v
Government Institutions .....	vi
Labor Sector Organizations .....	vi
Labor Market .....	vii
Role of the Labor Sector in Overarching Development Themes .....	vii
Strategic Considerations for USG .....	viii
<b>1.0 INTRODUCTION</b> .....	<b>1</b>
1.1 Why Labor and the Labor Sector? .....	1
1.2 Overview of Global Labor Sector Analytic Initiative .....	3
1.3 Organization of the Mexico Labor Sector Strategic Outline .....	7
<b>2.0 MEXICO'S LABOR SECTOR</b> .....	<b>9</b>
2.1 Legal Framework .....	9
2.2 Government Institutions .....	12
2.4 Labor Sector Organizations .....	15
2.5 Labor Market .....	18
<b>3.0 ROLE OF THE LABOR SECTOR IN OVERARCHING DEVELOPMENT THEMES</b> .....	<b>27</b>
3.1 Weak Rule of Law .....	27
3.2 Crisis of Representation .....	27
3.3 Obstacles to Competitiveness .....	28
3.4 Inequitable Distribution .....	30
3.5 Synergies and Tensions .....	30
<b>4.0 STRATEGIC CONSIDERATIONS</b> .....	<b>31</b>
Foreign Assistance Context .....	31
Strategic Recommendations .....	33
<b>APPENDIX A: RESULTS FRAMEWORK – SPECIAL OBJECTIVE FOR WORKERS' ORGANIZATIONS</b> .....	<b>35</b>
Results Framework – Overall Considerations .....	35
Process for Development of the USAID/Mexico Results Framework .....	35
<b>APPENDIX B: LIST OF MEETINGS</b> .....	<b>41</b>
<b>APPENDIX C: REFERENCES</b> .....	<b>43</b>

**DRAFT**

**List of Figures**

Figure 1: Global Labor Sector Analytic Initiative .....	5
Figure 2: Four Components of a Well-Functioning Labor Sector .....	6
Figure 3: Share of Population Employed in the Informal Sector, 2005 – 2009* .....	19
Figure 4: Salaried Workers by Sector, 2008 .....	20
Figure 5: Index of Manufacturing Employment, 2005 – 2009 (2003 = 100).....	21
Figure 6: Rate of Open Unemployment, 2005 – 2009 (%).....	21
Figure 7: Rate of Under-Unemployment, 2005 – 2009 (%)* .....	22
Figure 8: Salaried Workers by Income in Number of Minimum Wages, 2008 .....	23
Figure 9: Average Real Wages in Manufacturing, 1987 - 2002 .....	24
Figure 10: Coverage of Health and Pension Insurance by Income Deciles* .....	25
Figure 11: Distribution of Households by Socio-Economic Group and Remittances, 2005 .....	25
Figure 12: Cross-Cutting Results Framework for the Labor Sector in Mexico .....	37
Figure 13: Transitioning from the Global Results Framework to a Mexico Labor Sector Results Framework .....	38
Figure 14: Proposed Results Framework for Strengthening the Mexico Labor Sector (Through Worker Organizations).....	39

**List of Tables**

Table 1: Labor Authorities by Federal and Local Jurisdictions .....	13
Table 2: Selected Inspection Statistics.....	14
Table 3: Sources of GDP Growth Over Time.....	18
Table 4: Absolute Change in Number of Jobs by Size of Establishment, 2nd Quarter of 2008 through 3rd Quarter of 2009.....	20
Table 5: Selected Indicators in the Manufacturing Sector in September 2009 (% Variation Compared to Same Period in Previous Year).....	21
Table 6: Evolution of the real minimum wage, 1994 - 2009 .....	23
Table 7: Average Monthly Income of Salaried Workers, 14 Years and Older, by Gender, Second Quarter of Each Year, 1995 - 2009 (constant 2002 pesos) .....	24
Table 8: U.S. Government Foreign Assistance to Mexico.....	31

# ACRONYMS

CAT	Committee in Support of Workers
CC	Collective contract
CCE	Coordinating Business Council
CLS	Core labor standards
CMHN	Mexican Council of Businessmen
CNSM	National Minimum Wage Commission
Coparmex	Confederation of Employers of the Mexican Republic
CROC	Revolutionary Confederation of Workers and Peasants
CROM	Regional Workers' Confederation of Mexico
CSO	Civil society organization
CTM	Confederation of Mexican Workers
DRL	U.S. Department of State's Bureau of Democracy, Human Rights, and Labor
ENIGH	National Survey of Household Income and Expenditure
ENOE	National Survey of Occupation and Employment
EPL	Employment Protection Legislation
FDI	Foreign direct investment
FJ	Federal Jurisdiction
FNASA	National Federation of Autonomous Union Associations
FNSI	Federation of Independent Unions
FSM	Mexican Union Front
FSTSE	Federation of Public Service Workers
GDP	Gross Domestic Product
IFT	Federal Labor Inspectorate
ILO	International Labor Organization
ILT	Local Labor Inspectorate
IMSS	Mexican Social Security Institute
Infonavit	National Worker Housing Institute
IR	Intermediate Result

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ISI	Import substitution industrialization
JFCA	Federal Board of Conciliation and Arbitration
JLCA	Local Board of Conciliation and Arbitration
LFT	1931 Federal Labor Law
LJ	Local Jurisdiction
NAALC	North American Agreement on Labor Cooperation
NAFTA	North American Free Trade Agreement
NAO	National Administrative Office
NGO	Nongovernmental Organization
OECD	Organization for Economic Cooperation and Development
PAN	National Action Party
PRD	Party of the Democratic Revolution
PRI	Institutional Revolutionary Party
ProDesc	Project on Economic, Social and Cultural Rights
RF	Results Framework
SCJN	National Supreme Court
SHCP	Ministry of Finance and Public Credit
SME	Electricity Workers Union
SNTE	National Teachers Union
SNTMMSRM	Mining and Metalworkers Union
SO	Strategic Objective
STPS	Ministry of Labor and Social Welfare
TUCA	Trade Union Confederation of the Americas
UNT	United Workers Union
USAID	United States Agency for International Development
USG	United States Government



# EXECUTIVE SUMMARY

## MEXICO'S LABOR SECTOR

In the last three decades, Mexico has undergone a dual transition to a more market-oriented, globally integrated economy and a more pluralist, democratic political system. This transition has been accompanied by dramatic shifts in Mexico's labor market, which has become increasingly heterogeneous and informal. Despite these broad changes, however, Mexico's labor sector is characterized by a striking degree of institutional continuity, with negative consequences for worker rights.

### Legal Framework

Mexico's system of labor relations is founded on two key documents which have undergone very few changes since their creation: the 1917 Mexican Constitution (Article 123) and the 1931 Federal Labor Law (LFT). Both documents grant generous rights and privileges to workers and unions and also empower the state to intervene in labor affairs.

In general, among the most controversial examples of state intervention are (1) control over the process of union registration (*registro*); (2) authority to intervene in disputes between groups of workers vying for control of a collective contract through participation in a survey (*recuento*) to determine which group is supported by the majority of workers and thereby has title to the contract; (3) requirement that union leaders be certified by the labor authorities (*toma de nota*) before they can sign collective contracts; and (4) authority to regulate strike activity.

Freedom of association is further compromised by a provision of the LFT that allows for the incorporation of "exclusion clauses" into collective contracts that require every worker who is hired to join the existing union and every worker who is dismissed (or resigns) from the union to be fired by the employer. Besides controlling internal dissent, these clauses are one of several legal mechanisms that allow the negotiation of "protection contracts" whereby union leaders promise employers labor peace (and sometimes flexible work rules) in exchange for control of the collective contract, which is negotiated without the workers' knowledge or participation.

Mexico has ratified 70 International Labor Organization (ILO) Conventions (but only six out of eight Core Conventions) and is a signatory to the North American Agreement on Labor Cooperation (NAALC), which was negotiated as a side agreement to the North American Free Trade Agreement (NAFTA). The ILO Conventions are largely symbolic, however, and the NAALC is very weak with regard to collective rights. Nor has the Mexican Congress been able to pass a labor law reform, which is a necessary but insufficient condition for a significant improvement in labor rights in Mexico. Numerous proposals have been drafted since the late 1980s (including one currently before the Mexican Congress), several of which have included provisions to improve freedom of association, but they have all floundered in the face of competing priorities and resistance by vested interests. The most promising, albeit limited, avenue for modifying the legal framework has been the judiciary, which has recently become a more independent actor in Mexico's political system. Since the mid-1990s, the National Supreme Court (SCJN) has issued several rulings in favor of freedom of association.

## **Government Institutions**

The authorities responsible for labor administration and inspection are divided into federal and local jurisdictions, each of which covers different industries and sectors as established by the Constitution. The key actors are the Ministry of Labor and Social Welfare (STPS) for federal jurisdiction enterprises and state labor offices for local jurisdiction enterprises. Although the STPS has a professional, technically proficient staff at the highest levels, labor administration is often criticized for lacking transparency or accountability, failing to enforce the labor laws, and using the state's legal authority to privilege employers and/or compliant unions. Some believe that labor inspection suffers from a range of problems at both the federal and local levels, including inadequate resources and capacity, weak enforcement, and a weak culture among workers of reporting abuses or violations of the law.

Like labor administration and inspection, labor justice is divided into federal and local jurisdictions. The most important actors are the Federal and Local Boards of Conciliation and Arbitration (JFCA and JLCA), each of which is composed of representatives from the government, business, and labor. They are responsible for resolving conflicts between labor and capital and within the labor movement. The vast majority of claims involve individual disputes, particularly over unjustified dismissals, but the Labor Boards also handle collective disputes, including the granting and organizing of *recuentos*. While they provide an important channel for individual grievants to dispute unjust and/or illegal practices in the workplace, they are widely criticized for being biased, inefficient, and / or corrupt. One such criticism is that it empowers the state to influence the distribution of benefits through its presence on tripartite bodies such as the JFCA and JLCA, which are responsible for ruling on labor disputes, and the commissions mandated to set minimum wages, administer workers' housing, and regulate profit sharing.

## **Labor Sector Organizations**

Mexico's trade unions can be divided into four categories: (1) official unions and confederations, historically affiliated with the Institutional Revolutionary Party (PRI), that continue to dominate tripartite institutions, collaborate with the government and/or employers, and exercise veto power over labor law reform despite a dramatic decline in membership; (2) independent unions that are more autonomous from the state and potentially offer more genuine representation to their workers; (3) company unions promoted by the employers but independent from the state; and (4) protection unions that exist on paper but serve no representative function because their primary purpose is to protect the employer from worker demands.

Despite the growing influence of independent unions since the 1980s, Mexico's labor movement is currently facing a serious crisis of representation. First, a shrinking share of the workforce is unionized or employed by an establishment that engages in collective bargaining. Second, the majority of unions that do exist are either severely discredited as corrupt and self-serving or have no presence at all in the workplace. This lack of legitimacy has contributed to public support for anti-union initiatives by the government. Third, and related to the second issue, union leaders have not prepared a next generation of leadership and continue to wield power despite being increasingly distant from working-aged union rank and file.

Other key actors in Mexico's labor sector are business associations, particularly the Employer Confederation of the Mexican Republic (Coparmex), and civil society organizations (CSOs) concerned with labor rights. Founded in 1929, Coparmex is formally registered with the STPS, has an important presence on tripartite institutions, and has played a key role in all of the negotiations regarding labor law reform since the 1980s. Labor-rights CSOs are newer actors, reflecting the recent opening of political space for pluralist, issue-based groups. They emerged in the early 1990s, largely in response to the NAFTA negotiations, and have remained committed to advocating for *maquiladora* workers, pushing for multinational codes of conduct, exposing the issues raised by outsourcing and subcontracting, and promoting the formation of new, more democratic unions. They face numerous obstacles, however, to scaling up their programs and having a broader impact on labor relations.

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### **Labor Market**

Since the late 1980s, Mexico has experienced slower growth in output and productivity than other emerging market economies, with negative consequences for the country's living standards. While Mexico is criticized for having employment protection legislation (EPL) that raises the costs of creating jobs in the formal sector and inhibits the competitiveness of some formal-sector firms, the Mexican labor market is nonetheless quite flexible overall because of growing levels of informality, flexible interpretation of provisions written into collective contracts, and weak enforcement. The high costs of compliance with the EPL combine with very low costs of non-compliance to create perverse incentives that work against the expansion of high-quality jobs in the formal sector. Among the consequences are job insecurity, low productivity, stagnant wage growth, and heavy reliance on informal social safety nets.

Although Mexico has historically had low rates of unemployment, these figures conceal serious problems with the quality of employment. Not only are a growing share of workers either underemployed or overworked, but Mexican wages have grown only intermittently (while minimum wages have fallen dramatically) since the 1980s. Some experts believe that precarious employment and low wages are accompanied by a fragmented and inadequate social safety net and insufficient investment in human capital. Partly as a consequence of the poor quality of employment and social protection in Mexico, millions of Mexicans have migrated to the United States, contributing to the consolidation of a transnational labor market.

### **ROLE OF THE LABOR SECTOR IN OVERARCHING DEVELOPMENT THEMES**

Today, Mexicans have more choices in the marketplace and at the ballot box, but the positive impact of these choices is diluted by at least four challenges: (1) weak rule of law; (2) crisis of representation; (3) obstacles to competitiveness; and (4) highly inequitable distribution of economic gains. These challenges are especially acute in the labor sector, which continues to operate under many of the same rules, incentive structures, and leaders as before the dual transition. If progress on these fronts can be made in the labor sector, there should be valuable spill-over effects for the rest of Mexican society.

One of the most persistent legacies of Mexico's dominant-party regime is the lack of effective and efficient institutions for upholding the rule of law. Although the balance of power among the executive, legislative, and judicial branches has changed dramatically in Mexico since the PRI began to lose its grip on the political system in the 1980s, the judiciary and law enforcement agencies continue to be plagued by inefficiency, corruption, and the arbitrary exercise of authority. Many of these same problems plague Mexico's labor sector, resulting in violations of labor rights, inadequate access to labor justice, and serious obstacles to the modernization and democratization of the labor movement. The development of stronger mechanisms of transparency, accountability, and enforcement in the labor sector would not only limit the opportunities for malfeasance and enable workers to defend their rights more effectively, but would also have implications for the rule of law more generally.

Another challenge that has not been resolved by Mexico's market opening or transition to a more robust multiparty system is a serious crisis of representation in institutions that are supposed to provide intermediation between leaders and their constituent bases. While Mexico's elections are much more free and fair than in the past, they still serve as inadequate mechanisms of representation, largely because of the persistence of clientelism and the many failings of Mexico's political parties. The crisis of representation is even more severe in the labor movement, both within labor organizations and among workers in general. Lacking a meaningful "voice" in either the political arena or the labor sector, workers are highly susceptible to less democratic forms of interest intermediation (if not outright coercion). The persistence of these practices and power relations in the labor movement constitutes a major gap in Mexico's democracy and speaks to a broader need to democratize the *institutions* as well as the procedures of democratic governance.

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A third critical challenge is Mexico's inadequate adaptation to the pressures of a more competitive, globalized economy. Although the country's protective labor regulations have contributed to this outcome, more significant obstacles include inadequate investment in infrastructure and human capital, a lack of innovation and upgrading, weak sectoral policy, concentration of ownership, and widespread corruption. The failure to overcome these obstacles is related to (1) an over-reliance on low wages to promote competitiveness; and (2) insufficient attention to the perverse incentives created by Mexico's *de facto* weak protections for workers. In combination with appropriate government policies and changes in union culture, a stronger voice for labor could force companies to remain competitive by improving quality and efficiency rather than holding down wages. In the process, it would encourage employers to share the costs of investing in human capital, innovation, and upgrading, thereby easing the burden on the state.

A fourth challenge is Mexico's highly inequitable distribution of income, which affects not only economic well-being but also access to social and political resources. Historically, Mexico's labor institutions have had an ambiguous impact on income distribution. While they helped raise the standard of living of thousands of workers, they also created a labor aristocracy that enjoyed privileged access to well-paying jobs and good benefits. In some key sectors, union jobs are still hereditary or for sale. This "insider unionism" has gotten worse in the face of economic crisis and declining rates of union membership, as union leaders and unionized workers cling jealously to their remaining privileges, using their wealth and political positions for pro-union purposes. Although the democratization of the labor movement would not immediately lead to more equitable conditions for workers, it would expand access to collective rights which, especially if combined with a cultural shift among workers towards demanding their rights and greater engagement in solidaristic activities, could create more favorable conditions for improving the living standards of workers currently excluded from the labor aristocracy.

## **STRATEGIC CONSIDERATIONS FOR USG**

Although transformative change in Mexico's labor sector will require labor law reform and improvements in enforcement, this report recommends two types of strategic interventions by the USG that promise to generate multiplier effects in favor of rule of law, democratic interest intermediation, competitiveness, and equity. The first type focuses on increased monitoring of labor administration and labor justice by unions and/or civil society organizations (CSOs) to support freedom of association. Specifically, the report recommends that independent unions and CSOs (1) launch a campaign to support a recent Supreme Court ruling on secret ballots in *recuentos* and the unconstitutionality of the exclusion clauses; (2) lobby the state and federal governments to make information about unions and collective contracts available and accessible to the public, thereby exposing protection contracts and other violations of labor rights; and (3) monitor and evaluate disputes related to freedom of association (e.g., denial of union registration, dismissal of workers trying to form a union) and how they are resolved by the labor authorities.

The second type of strategic intervention targets union governance and strategy, particularly among independent unions, to enhance union democracy and capacity, promote grass-roots organizing and solidarity with labor-rights CSOs, and encourage greater collaboration with employers to pursue mutually beneficial strategies to enhance competitiveness and equity. Internally, unions are encouraged to adopt statutory reforms aimed at democratizing leadership selection and to engage in leadership training to promote internal democracy and a new culture of organizing. Externally, they are encouraged to develop stronger networks and alliances, particularly with non-unionized workers and CSOs. Finally, the report advocates for greater dialogue and collaboration between unions and employers regarding the search for solutions to Mexico's weak competitiveness.

# 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 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 relations<sup>1</sup> 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).<sup>2</sup> 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

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<sup>1</sup> 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).

<sup>2</sup> 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.

## *CIRCULATION DRAFT*

respond to their citizen's needs. The 2000 Report of the Advisory Committee on Labor Diplomacy to the 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.<sup>3</sup>

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.

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

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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).<sup>4</sup> USG programming has aimed at:

- 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.<sup>5</sup> 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

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<sup>4</sup> 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.

<sup>5</sup> Described in detail at [http://www.dol.gov/ilab/media/events/G20\\_MinistersMeeting/](http://www.dol.gov/ilab/media/events/G20_MinistersMeeting/).

## *CIRCULATION DRAFT*

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 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:

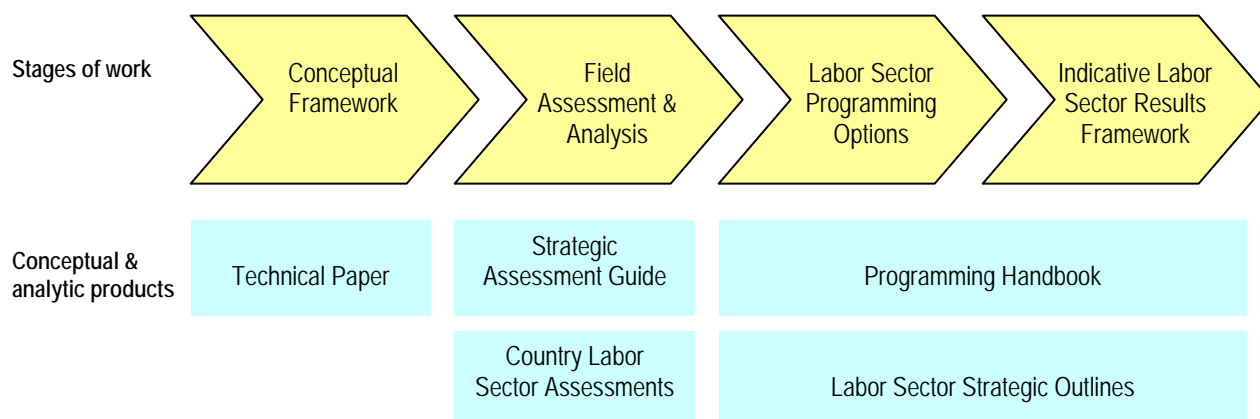
- What is a “labor sector”?
- Who are the key actors in a labor sector, and what are the relationships among them?
- In what various ways are labor sectors structured around the globe and how do they behave?
- What performance standards would one expect to see in a “well-functioning” labor sector?
- 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.



## CIRCULATION DRAFT

FIGURE 1: GLOBAL LABOR SECTOR ANALYTIC INITIATIVE



The **Technical Paper** (Salinger and Wheeler 2010) suggests that:

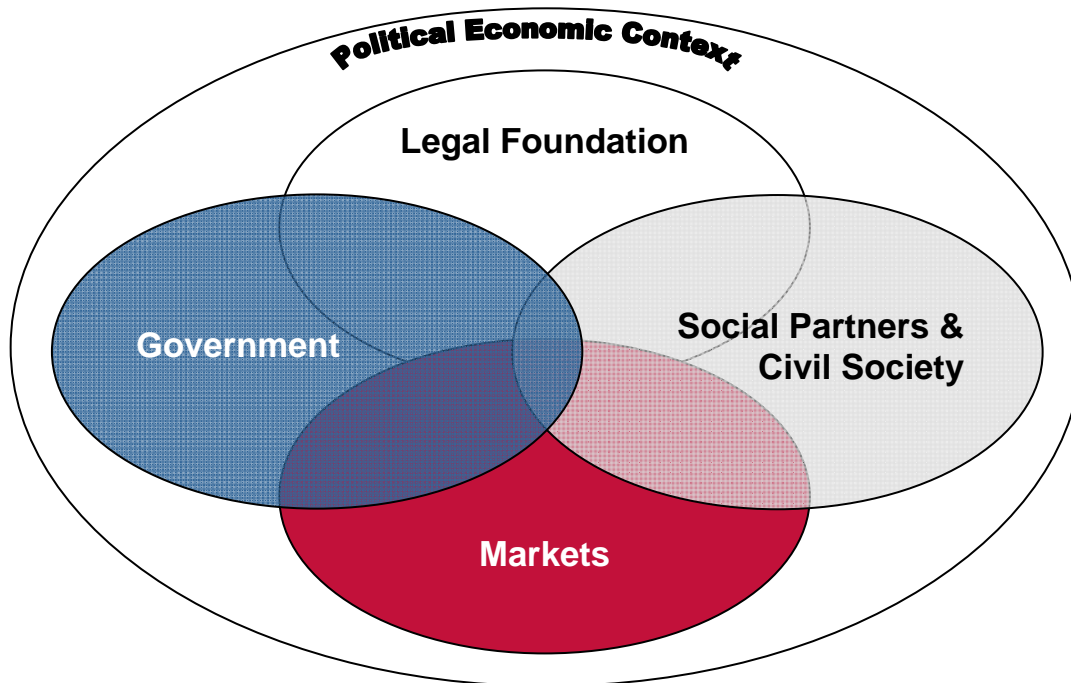
- 1) the labor sector – that is, the legal foundation, government, social partners<sup>6</sup> and civil society, and labor markets, understood individually, overlapping, and intersecting with each other, as depicted below in Figure 2– is a **multidimensional system** that requires multiple and integrated 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 the 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 2010). 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.

<sup>6</sup> 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 (Salinger and Saussier 2010).
- 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 (Chottepanda 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 2010)
  - South Africa (Kalula and Sukthankar 2010)

## ***CIRCULATION DRAFT***

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 MEXICO LABOR SECTOR STRATEGIC OUTLINE**

The Mexico Labor Sector Strategic Outline field research was carried out from January 1-15, 2010. Its purpose was to better understand the interconnection between labor rights, organizations, markets, and institutions and identify strategic approaches and opportunities for labor-related programming in Mexico to achieve strategic goals in other objective areas. The assessment team met with representatives of the USG Mission; trade unions; the Labor Ministry, workers in the telecommunications and other sectors; employer/business organizations; CSOs; international organizations; private think-tanks; and individual experts.

This report summarizes the Mexico Labor Sector Assessment team's findings and analysis. Section 2 presents an overview of the economic, political, and historical contexts in which Mexico's labor sector is situated. Section 3 analyses Mexico's 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 Mexico from 2003 to the present. Section 4 summarizes the U.S. government foreign assistance program in Mexico and concludes with strategic considerations and program recommendations, highlighting opportunities for labor-related programming identified by the labor assessment team.



## 2.0 MEXICO'S LABOR SECTOR

In the last three decades, Mexico has undergone a dual transition to a more market-oriented, globally integrated economy and a more pluralist, democratic political system. Following the debt crisis of the early 1980s, Mexico abandoned import substitution industrialization (ISI), which entailed high levels of state intervention and regulation, and adopted market reforms such as trade liberalization, deregulation, and privatization. These reforms shifted the engine of growth from the state to the private sector and fueled the rapid integration of the Mexican and U.S. economies, formalized by the North American Free Trade Agreement (NAFTA) that went into effect in January 1994. Over the same period, Mexico's hegemonic party, the Institutional Revolutionary Party (PRI), which had controlled all three branches of government and every governorship since 1929, gradually lost its hold over the political system, culminating in the victory of an opposition candidate, Vicente Fox, in the 2000 presidential elections. The party system became characterized by competition among three parties—the PRI, the National Action Party (PAN), and the Party of the Democratic Revolution (PRD)—and power shifted from the national executive to the legislature, judiciary, and state governors.

Despite these broad changes, however, Mexico's labor sector is characterized by a striking degree of institutional continuity. For fifty years, the PRI and its allies in the labor movement, most notably the Confederation of Mexican Workers (CTM) and other affiliates of the Labor Congress (CT), dominated the labor sector through a series of bargains whereby they received socio-economic, political, and organizational benefits in return for their support for the regime and its economic policies.<sup>7</sup> Although the socio-economic and political bargains have been weakened by market reform and electoral competition,<sup>8</sup> the organizational bargain remains largely intact despite several changes that might have been expected to cripple it. First, CT unions continue to dominate labor's seats in key institutions, which some argue they use to collude with the state and employers to hold down wages, block the formation of new unions, and punish workers who demand better working conditions. Second, not even the emergence of the United Workers Union (UNT) in the late 1990s as a more politically pluralistic and independent alternative to the CT has fundamentally altered what some believe to be the propensity of Mexican unions to engage in backroom deals to protect their organizational prerogatives. Finally, neither the PAN nor the PRD (at the state level) has been willing to disrupt a system that has been successful in maintaining labor peace,

### 2.1 LEGAL FRAMEWORK

As mentioned above, Mexico's system of labor relations is founded on two key documents: the 1917 Mexican Constitution (Article 123) and the 1931 Federal Labor Law (LFT), both of which grant generous rights and privileges to workers and unions but also empower the state to intervene in labor affairs. These

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<sup>7</sup> The CT was created in 1966 as an umbrella organization of PRI-affiliated unions. Although dominated by the CTM, the CT also includes the FSTSE, the Revolutionary Confederation of Workers and Peasants (CROC), the Regional Workers' Confederation of Mexico (CROM), and national autonomous unions in strategic sectors such as railroads, mining and metalworking, electric utilities, telecommunications, petroleum, transport, sugar, textiles, and printing. In 1979, the CT accounted for 73.5 percent of unions and 83.9 percent of unionized workers (Burgess 2004: 40).

<sup>8</sup> The number of CTM deputies declined from 34 in 1988 to six in the current legislature. At the same time, the PRD and the PAN increased their share of labor deputies, but the numbers are small.

## *CIRCULATION DRAFT*

documents have undergone very few changes since their creation. The most significant modification to Article 123 was the creation of separate (and more restrictive) regulations for public sector workers (Apartado B) in 1960, which led to promulgation of the Federal Law for Public Sector Workers in 1963. Similarly, the LFT has undergone only minor modifications, most recently in 1980.

Widely considered one of the most progressive labor declarations of its time, Article 123 guarantees the right to organize and strike, protections against dismissal, minimum standards of occupational health and safety, job training, a prohibition against child labor, maternity leave, equal pay for equal work, a living wage, an eight-hour workday, overtime pay, housing, social security, and profit sharing. At the same time, however, it empowers the state to influence the distribution of these benefits through its presence on tripartite bodies such as the JFCA and JLCA, which are responsible for ruling on labor disputes, and the commissions mandated to set minimum wages, administer workers' housing, and regulate profit sharing.

The LFT codifies many of the provisions of Article 123 while creating additional opportunities for the state to intervene in labor affairs and fragmenting labor relations by limiting the scope of labor unions and collective bargaining. Although these interventions are not *necessarily* against the interests of workers and unions, they give the state the discretionary authority to play favorites and manipulate outcomes, particularly in the context of poor accountability mechanisms and weak rule of law.

First, the LFT enables the state to control the process of union registration (*registro*). Although any group of 20 or more workers in a firm can form a trade union without prior authorization, they must be recognized by the labor authorities before they can legally represent workers, negotiate collective contracts, or call a strike. Petitions for registration can be rejected for a failure to meet membership and information requirements.

Second, the LFT empowers the state to intervene in disputes between groups of workers vying for control of a collective contract. Workers have the right to ask the labor authorities to conduct a survey (*recuento*) to determine which group is supported by the majority of workers and thereby has title to the contract. But the labor authorities have the power to decide whether to hold the *recuento*, and they control the process by which the responses are collected and counted.

Third, the LFT requires that union leaders be certified by the labor authorities (*toma de nota*) before they can sign collective contracts. Notably absent from the LFT, however, are any requirements that unions adhere to democratic methods of leadership selection or submit collective contracts to a vote by their membership.

Finally, the LFT creates both the opportunity and the incentives for the labor authorities to regulate strike activity. To be recognized as legal, a strike must be supported by a majority of workers and preceded by a formal petition (*emplazamiento*) specifying the time and place of the strike action. Acceptance of the petition requires that the union meet strict procedural requirements (although there is no mechanism to verify that the union has the support of the workers). Even if the petition is approved, the labor authorities can accept a request by the employer (or an interested third party) to declare the strike “non-existent” within 72 hours of its initiation and/or to close the plant, thereby rendering the collective contract null and void unless the workers return to work within 24 hours. Ironically, the incentives for employers and the state to resort to these tactics are heightened by other LFT provisions that presumably empower unions but often result in excessively long and costly strikes, specifically, a requirement that the plant cease all operations during the strike and a lack of binding arbitration.

Freedom of association is further compromised by a provision of the LFT that allows for the incorporation of “exclusion clauses” into collective contracts that require every worker who is hired to join the existing union (entry clause) and every worker who is dismissed (or resigns) from the union to be fired by the employer (separation clause). Besides controlling internal dissent, these clauses are one of several legal mechanisms that allow the negotiation of “protection contracts” whereby union leaders

## *CIRCULATION DRAFT*

promise employers labor peace (and sometimes flexible work rules) in exchange for control of the collective contract (CC), which is negotiated without the workers' knowledge or participation.

Although in existence since the 1920s, protection contracts have proliferated in the last three decades. Often in place before the firm has hired any workers, these contracts generally do not go beyond the minimum standards allowed by law and are not renegotiated or revised on a regular basis. Their existence is made possible and/or encouraged by several provisions and loopholes in the labor code, including (1) the exclusion clauses, which create a monopoly of representation in the workplace; (2) the obstacles to contesting an existing union's title to the CC; (3) the absence of any requirement that the workers review or approve the CC; (4) the fragmentation of collective bargaining, which encourages employers and labor leaders to negotiate separate contracts for each workplace; and (5) the high incentives of employers to avoid strikes because of their potentially devastating impact on production. According to a recent study, an astounding 90% of collective contracts in Mexico's Federal District are protection contracts (Bouzay 2009).<sup>9</sup> Some experts argue that, taken together, these provisions have created significant obstacles to freedom of association in Mexico.

None of these shortcomings is adequately addressed by international conventions or treaties. Mexico has ratified 70 ILO Conventions (but only six out of eight Core Conventions)<sup>10</sup> and is a signatory to the North American Agreement on Labor Cooperation (NAALC), which was negotiated as a side agreement to NAFTA. The NAALC obligates each party to enforce its own labor laws, promote 11 labor principles, establish a National Administrative Office (NAO) to review complaints, support the investigation of alleged violations, and make all relevant laws, regulations, and data available for public review. The 11 labor principles go slightly beyond the ILO's Core Conventions to include the right to strike, minimum employment standards, preventive and compensatory measures regarding occupational health and safety, and protection of migrant workers.

The AFL-CIO notes that the NAALC is the "first international labor agreement directly connected to a trade pact that allows for the imposition of economic sanctions to enforce worker rights" (2003: 97). The agreement is very weak, however, with regard to collective rights. Although freedom of association, collective bargaining, and the right to strike are among the 11 labor principles, they are excluded from consideration for review fairly early in the process. Moreover, the only kinds of violations that can result in trade sanctions are those involving child labor, minimum wage, or occupational health and safety. More than 35 submissions have been filed under the NAALC, but none has gone beyond the phase of ministerial consultations.

A necessary, although not sufficient, condition for a dramatic improvement in labor rights in Mexico is a reform of the labor code that (1) reduces the state's discretionary authority over union formation, collective bargaining, union leadership, and worker mobilization; (2) prohibits exclusion clauses and protection contracts; and (3) imposes minimum standards of transparency and accountability on internal union governance. Numerous proposals for labor law reform have been drafted since the late 1980s, several of which have included provisions to improve freedom of association, but they have all floundered in the face of competing priorities and resistance by vested interests.

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<sup>9</sup> A notable example of the proliferation of protection contracts can be found in the stores owned by Walmart, currently the largest employer in Mexico. Although all Walmart workers are formally unionized, studies show that very few of them have any idea that they belong to a union (ProDESC 2008). Moreover, each store (and sometimes different departments within a store) has its own collective contract, giving Walmart the option of closing down any operation in which workers attempt to organize a formal union.

<sup>10</sup> Mexico has not ratified ILO Convention 98 (Right to Organize and Collective Bargaining) or ILO Convention 138 (Minimum Age Convention).

## ***CIRCULATION DRAFT***

The current administration is engaged in another attempt to win congressional approval for a labor law reform that includes several provisions favorable to union democracy, but it has been met with fierce resistance by independent unions, the PRD, and labor lawyers. Among their objections are (1) its emphasis on labor market flexibility, particularly with regard to short-term contracts and layoffs; (2) increased restrictions on the right to strike; and (3) a provision that purports to increase transparency by requiring groups of workers contesting control of a collective contract to provide their names to the labor authorities, which opponents view as a thinly disguised ploy to identify and then punish dissident workers. Most observers doubt the proposal will pass, particularly in light of the pre-electoral breakdown of cooperation between the PRI and the PAN.<sup>11</sup> Even if some version of the proposal survives, there is a strong likelihood that its democratizing provisions will be traded away in return for support for the flexible interpretation of measures by the official unions, which Labor Ministry officials admit is critical to the reform's prospects. Furthermore, the PRI won the majority of gubernatorial elections in 2010, and most experts believe that it is likely that it will win back the presidency in 2012. Some experts point to a lack of internal reform in explaining why the party will further weaken any reforms passed under the opposition's presidency.

A more promising, albeit limited, avenue for modifying the legal framework has been the judiciary, which has recently become a more independent actor in Mexico's political system. Since the mid-1990s, the National Supreme Court (SCJN) has issued three sets of rulings in favor of freedom of association.

- In 1996, the SCJN ruled that public employees have the right to affiliate freely with unions of their choice or to create new unions, thereby overturning the requirement that all public employees belong to the Federation of Public Service Workers (FSTSE). A subsequent ruling in 1999 made this decision binding on all lower courts. These rulings prompted the defection of dozens of public employee unions from the FSTSE and the creation of alternative federations.
- In 2001, the SCJN took aim at the exclusion clauses, which it declared unconstitutional in response to a petition filed by a group of sugar workers who had been fired because they lost their union membership for trying to organize an independent union. The decision is not binding on the lower courts, however, unless the court rules similarly in four more cases, which has not yet happened.
- In 2008, the SCJN ruled in favor of the use of secret ballots in *recuentos*. Because it resolved a contradiction between two previous rulings, it is immediately binding on the lower courts and the labor authorities. The key challenge is to ensure that the ruling is enforced, which will require vigilance by unions and/or civil society organizations.

## **2.2 GOVERNMENT INSTITUTIONS**

The authorities responsible for labor administration and inspection are divided into federal and local jurisdictions, each of which covers different industries and sectors as established by the Constitution (Table 1). The key actors are the Ministry of Labor and Social Welfare (STPS) for federal jurisdiction enterprises and state labor offices for local jurisdiction enterprises. Among the key responsibilities of the STPS are (1) the collection of statistics on union membership and collective contracts in federal jurisdiction (FJ) enterprises, as well as labor market conditions in general; (2) granting *registros* and

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<sup>11</sup> During the XV National Congress and 74th anniversary celebration of the CTM, at which the delegates reelected their Secretary General (2010 – 2016), the president of the PRI's National Executive Committee criticized the government's labor policy and rejected any reform that would limit protections against unjustified dismissals or negatively affect the collective rights of workers, particularly the right to strike. These proclamations appear to close off any possibilities of labor law reform before local elections later this year (*Milenio*, 24 de febrero del 2010).



**DRAFT**

*tomas de nota* in FJ industries; (3) ruling on the legality of strike petitions and requests by employers to declare strikes non-existent; and (4) inspections and inspection policy regarding health and safety in all industries and other working conditions in FJ industries (managed by the Federal Labor Inspectorate [IFT], a special bureau of the STPS). State labor offices and their Local Labor Inspectorates (ILT) have the same responsibilities in local jurisdiction (LJ) industries, with the exception of union registrations, which are handled by the local Boards of Conciliation and Arbitration (see below), and health and safety inspections, which are handled by the IFT.

**TABLE 1: LABOR AUTHORITIES BY FEDERAL AND LOCAL JURISDICTIONS**

	<b>Federal</b>	<b>Local</b>
Coverage	Strategic industries and sectors	All other industries and sectors
Labor Administration	STPS	State government
Labor Inspection	Federal Labor Inspectorate	Local Labor Inspectorate
Labor Justice	JFCA	JLCA
	Judicial Review Tribunal	Judicial Review Tribunal
	Federal Office of the Labor Public Defender (PROFEDET)	State offices of labor public defender (not in all states)

Although the STPS has a professional, technically proficient staff at the highest levels, labor administration in both federal and local jurisdictions is often criticized for lacking transparency or accountability, failing to enforce the labor laws, and using the state’s legal authority to privilege employers and/or compliant unions.<sup>12</sup> The STPS publishes some statistics on labor market conditions and labor relations, but it does not release data on union membership or provide detailed information on collective contracts.

Experts assert and published reports indicate that labor inspection suffers from a range of problems at both the federal and local levels, as evidenced by the statistics below.

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<sup>12</sup> This assessment is based on our interviews with labor lawyers, union leaders, NGO representatives, and academics in Mexico. Besides journalistic accounts, there is almost nothing written about the STPS.

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**TABLE 2: SELECTED INSPECTION STATISTICS**

	Federal Inspection (national) (2006)	Federal Inspection (Puebla) (2005)	Local Inspection (Federal District) (2006)
Eligible enterprises	814,341	8,930	140,000
Inspections	23,976	763	1,533
Inspected enterprises	12,912	542	1,533
Inspectors	181	5	32
Sanctions	3,767	124	125
Workers affected	2,398,573	Nd.	30,660

*Source: Bensusán 2007b*

Per the information above, experts believe that responsible agencies lack adequate resources and capacity. Some point out that inspectors are understaffed and poorly paid, which could contribute to low numbers of inspections, a diminished capacity to investigate working conditions thoroughly, and long delays between the time of inspection, the issuing of recommendations, and a juridical resolution (in the rare event that cases reach this last stage). Second, some experts argue that few recommendations lead to sanctions and, when they do, the fines are relatively low and rarely paid. The labor authorities tend to privilege voluntary compliance and prevention over punitive sanctions (although there was some shift in favor of the latter after a tragic accident killed 65 workers at the Pasta de Conchos mine in 2006). Third, there is a lack of coordination among the multiple agencies responsible for enforcing workplace rules, which include the STPS and the Mexican Social Security Institute (IMSS).<sup>13</sup> Fourth, some experts assert there may be collusion between inspectors and employers, e.g., when inspectors give employers the opportunity to temporarily “clean up” violations and/or remove troublesome workers before the inspection. Workers can be voluntarily involved in this kind of collusion because formal sector jobs are difficult to find. Finally, traditionally in Mexico workers rarely report abuses or violations of the law, reflecting fears among workers of being harassed, losing their jobs, and/or being placed on a black list.

Like labor administration and inspection, labor justice is divided into federal and local jurisdictions (Table 1). The most important actors are the Federal and Local Boards of Conciliation and Arbitration (JFCA and JLCA), each of which is composed of representatives from the government, business, and labor. Other actors include (1) federal and local Labor Public Defenders, which are decentralized agencies of the STPS and state labor offices, respectively, and are charged with providing guidance and advisory

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<sup>13</sup> In addition, the Ministry of Finance and Public Credit (SHCP) needs to coordinate with the STPS and the IMSS to develop a common database for making tax determinations.

## ***DRAFT***

services, conciliation, and representation in lawsuits; and (2) Tribunals of Judicial Review (*Tribunales de Amparo*), which rule on appeals for judicial review based on claims of constitutional violations.

The JFCA and JLCA are part of the executive branch and depend on STPS for their budgets. They are responsible for resolving conflicts between labor and capital and within the labor movement, including the granting and organizing of *recuentos*. The JLCA are also responsible for granting union registrations in LJ industries. Ninety-five percent of claims before the JFCA and JLCA involve unjustified dismissals (Bensusán et al. 2007a: 44), often triggered by attempts to form a union or complain about working conditions.

The JFCA and JLCA provide an important channel for individual grievants to dispute unjust and/or illegal practices in the workplace (Middlebrook and Quinteros 1995), but they are widely criticized for being biased and inefficient (Bensusán et al. 2007a).<sup>14</sup> First, as mentioned earlier, their tripartite structure empowers actors with a vested interest in the status quo and thereby stifles the formation of more independent unions and/or demands for better working conditions. The structure also makes the government the tie-breaker, increasing its power over business and labor. Second, the Boards lack the capacity to handle the high volume of claims. Although the number of collective conflicts fell by 50 percent between 1991 and 2004, the number of individual conflicts tripled during the same period (Bensusán et al. 2007a: 43). Third, conflicts are rarely resolved in a timely fashion, leading many workers to settle their claims for a lesser amount before a ruling is issued. Finally, some experts argue that the proceedings are plagued by intimidation and violence.

As discussed above, there have been several proposals for labor law reform that would reduce the discretionary authority of labor authorities to block the formation and autonomy of more independent, democratic unions. Some of these proposals have also included provisions that would replace the JFCA and JLCA with Labor Tribunals that would be part of the judicial branch. Although we found widespread support for this idea among both labor activists and business lawyers, it is not included in the reform proposal currently being promoted by the Calderón administration, consistent with their decision not to propose modification of Article 123.

## **2.4 LABOR SECTOR ORGANIZATIONS**

Three types of organizations play a role in labor relations: trade unions, business associations, and civil society organizations (CSOs).

Mexico's trade unions can be divided into four categories:

1. Official unions and confederations, historically affiliated with the PRI and the Labor Congress (CT), that continue to dominate tripartite institutions, collaborate with the government and/or employers, and exercise veto power over labor law reform despite a dramatic decline in membership.<sup>15</sup> Although confederations such as the CTM, the CROC, and the CROM increasingly depend on protection contracts to sustain themselves, they still have a real presence among workers in some industries and workplaces. These unions are based in Mexico City but have sections throughout the country. The largest union affiliated with the Labor Congress is the powerful National Teachers Union (SNTE).

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<sup>14</sup> We also heard this criticism repeatedly during our field interviews.

<sup>15</sup> In the last decade, CTM membership in federal jurisdiction industries has fallen by 50 percent, from one million to 500,000 members (*Reforma*, 23 de febrero de 2010).

## **DRAFT**

2. Independent unions that are more autonomous from the state and offer better representation to their workers. Independent unions have always existed in Mexico, but they have become more numerous and influential in the wake of Mexico's dual transition. Today, they include the more radical, combative unions that belong to the Mexican Union Front (FSM), most notably the SME, and the more moderate, collaborative unions that belong to the UNT, most notably the Telephone Workers Union (STRM). Although most of these unions have a nationwide presence, they tend to be strongest in Mexico City. These unions have the greatest potential to transform the Mexican labor movement, but they continue to suffer from a lack of internal democracy, strategic vision, or a culture of organizing. One promising, but still incipient, development is the support being offered by the STRM and the Mining and Metalworkers Union for the organizing efforts by groups of workers in other industries (call centers and autoparts, respectively).
3. Company unions (*sindicatos blancos*) that are promoted by the employers but remain independent from the state. Based in the northern city of Monterrey, Nuevo León, the two most important federations are (1) the Federation of Independent Unions (FNSI) composed of company unions in medium-sized and light industry; and (2) the National Federation of Autonomous Union Associations (FNASA) composed of company unions in heavy industry.
4. Protection unions that exist on paper (*sindicatos de membrete*) but serve no representative function because their only purpose is to negotiate protection contracts. These "unions" have proliferated in recent years, particularly in services, construction, and the *maquiladoras*. Rather than representing workers, they operate as business ventures that provide a service to employers in exchange for a fee. Although the majority of protection unions are affiliated with the official confederations, particularly the CTM and the CROC, a growing share are either unaffiliated or belong to "independent" federations. Not surprisingly, their leaders often control dozens of CCs.<sup>16</sup> The most notorious leader of an independent federation of protection unions, Ramón Gámez Martínez, had collective contracts with over 1,600 companies and 200,000 workers around the country in the early 2000s (Xelhuantzi-López 2002: 23).

Mexico's labor movement is currently facing a serious crisis of representation. First, the unions represent an increasingly small share of the workforce. Between 1992 and 2006, the unionized share of the economically active population fell from 13.6 percent to 9.7 percent, and the unionized share of workers who were at least 14 years old and worked in establishments of 20 or more workers (therefore being eligible to join unions) fell from 22.1 percent to 15.3 percent (Salas 2008: 18).<sup>17</sup> Second, in 2007 only around 7.5 percent of salaried workers were employed by establishments that engaged in collective wage bargaining (Banco de México 2009: 17, 21).<sup>18</sup> Finally, the majority of unions that do exist are either severely discredited as corrupt and self-serving or have no presence at all in the workplace. This lack of legitimacy has contributed to public support for anti-union initiatives.

Mexico has one of the most well-organized business sectors in Latin America (Schneider 2002). Although compulsory associations dominated the landscape until the 1970s, voluntary organizations have since

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<sup>16</sup> According to a recent study of protection contracts in the Federal District, the majority of CCs deposited with the JLCA in 2005 and 2006 were controlled by unions with more than 100 CCs (Bouzas Ortiz et al. 2009: 98-99).

<sup>17</sup> The rate of unionization as a share of the EAP is somewhat higher (10.6 percent in 2006) using the statistics in the National Survey of Occupation and Employment (ENOE), which adopts a different methodology (Salas 2010).

<sup>18</sup> This figure is not exact because not all JLCA provided information regarding wage negotiations to STPS. It should also be noted that contracted wages in FJ enterprises are extended to all enterprises in the sector.

## **DRAFT**

emerged as the most powerful actors in the business sector, particularly among big business.<sup>19</sup> The three most significant voluntary associations are the Confederation of Employers of the Mexican Republic (Coparmex), the Mexican Council of Businessmen (CMHN), and the Coordinating Business Council (CCE). Coparmex, founded in 1929, is formally registered with the STPS, represents both large and small firms, has an important presence on tripartite institutions, and has played a key role in negotiations over labor law reform since the 1980s. The CMHN, founded in 1962, is a much smaller organization that represents Mexico's largest business conglomerates, meets regularly with powerful politicians and government officials, and promotes other business associations. The CCE, founded in 1975, is an encompassing peak association that includes nearly every type of Mexican firm organized into eight sectoral associations, although big business is overrepresented. These associations are formally non-partisan, but they have strong ties with pro-business factions of the PAN and/or the PRI. They all exercise significant influence over labor market policies, but Coparmex has been the most actively involved in labor administration and debates over labor law reform.

By contrast, civil society organizations were practically non-existent until the 1980s, when they began to multiply and gain influence in the context of political opening, the deterioration of the social safety net, and a shifting discourse in favor of NGO participation in social service delivery. Labor-rights CSOs joined this trend in the early 1990s largely in response to the NAFTA negotiations, which prompted the formation of transnational networks of anti-NAFTA activists and shined a spotlight on the working conditions and FOA violations in the *maquiladoras* along the U.S.-Mexican border. Since NAFTA's passage, labor-rights CSOs have remained committed to advocating for *maquiladora* workers, both along the border and in the interior (e.g., in the state of Puebla), and have played an important role in pushing for multinational codes of conduct and exposing the issues raised by outsourcing and subcontracting. A small but growing number of CSOs are also moving in the promising direction of linking labor rights more broadly to human rights (including social, economic, gender, cultural, and ethnic rights). While some labor-rights CSOs have collaborated with the left-leaning PRD, they tend to be strongly committed to maintaining their autonomy from political parties.

In a few cases, CSOs such as the Project on Economic, Social and Cultural Rights (ProDesc) and the Committee in Support of Workers (CAT) have been critical to the formation of new, democratic unions and/or the negotiation of favorable settlements with employers or the state, but they face numerous obstacles to scaling up their programs and having a broader impact on labor relations. First, like the unions, they are struggling to unleash multiplier effects from individual success stories. Second, most CSOs are constrained by limited human and financial resources. Finally, CSOs are often viewed suspiciously by the unions, even the progressive, independent ones. Mexican unions are not accustomed to constructing broader alliances with civil society, and they tend to guard their issues and members very jealously.

Given these obstacles, CSOs should complement their advocacy work on behalf of particular workers and communities with programs that strategically target points of vulnerability in the system of labor relations. Specifically, they could create positive multiplier effects by: (1) monitoring compliance by the labor authorities with the requirement that *recuentos* be conducted by secret ballot; (2) systematically monitoring and evaluating the resolution of FOA-related disputes; and (3) providing legal services on behalf of workers fired unjustifiably as a result of the exclusion clauses in an attempt to bring more cases before the Supreme Court. They would also benefit from coalition-building on two fronts: (1) cultivating stronger relationships with independent unions, which are critical actors and have much greater resources;

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<sup>19</sup> The compulsory associations were severely weakened by a 1997 law that rescinded compulsory membership (Schneider 2002: 79).

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and (2) reaching out to CSOs (and publics) concerned with the quality of Mexico’s democracy by linking labor rights to democratic governance.<sup>20</sup>

## 2.5 LABOR MARKET

Since the late 1980s, Mexico has grown more slowly than other emerging market economies, with negative consequences for the country’s living standards (Table 3). The Organization for Economic Cooperation and Development (OECD) attributes this outcome to much weaker labor productivity, which began to grow in the late 1990s but was slightly negative between 1987 and 2007. Low productivity growth has plagued all sectors of the economy, applying to around 80 percent of employment in agriculture, manufacturing, wholesale and retail trade, and social services.

**TABLE 3: SOURCES OF GDP GROWTH OVER TIME**

Mexico	1987-1992	1992-1997	1997-2002	2002-2007
GDP	2.44	2.99	3.16	3.16
GDP per capita	0.25	1.15	1.76	2.06
Labour Productivity	-2.03	-0.75	0.82	1.11
Labour Utilisation	1.73	1.32	0.24	0.21
Demographics	0.59	0.59	0.68	0.73

Source: OECD (2009b)

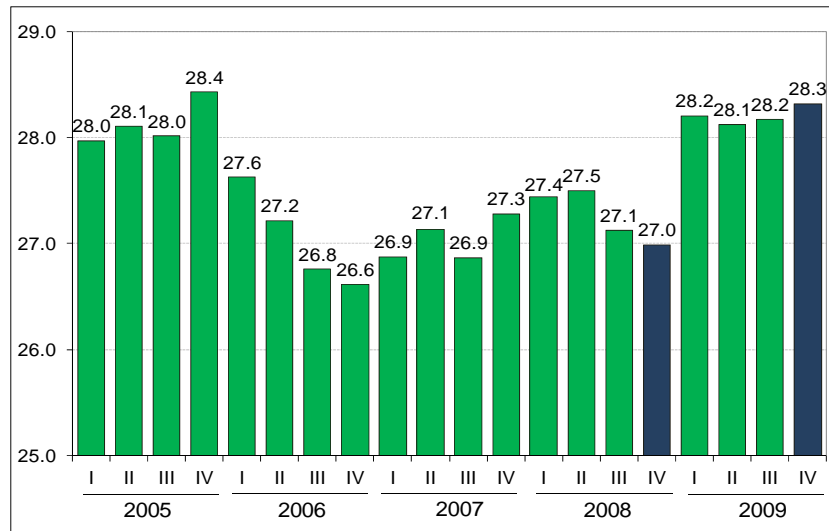
Moreover, the small but positive productivity gains since the late 1990s can be attributed primarily to a “between-sector” effect (particularly the decline in agricultural employment) rather than a “within-sector” effect (improvements driven by technological change or capital accumulation). Finally, the within-sector productivity gains that did occur were (1) largely a result of down-sizing rather than upgrading or innovation; and (2) offset by increasing employment in low productivity sectors such as commerce and construction (OECD 2009b).

Mexico is widely criticized for having employment protection legislation (EPL) that raises the costs of creating jobs in the formal sector and inhibits the competitiveness of Mexican firms. According to the 2008–2009 Global Competitiveness Index constructed by the World Economic Forum (Hausman et al. 2009), Mexico ranks 110<sup>th</sup> out of 134 countries on labor market efficiency. Disaggregating this indicator, the factors that received the worst scores were female participation in the labor market (115), rigidity of employment (99), hiring and firing practices (91), and non-wage labor costs (89). In addition, restrictive labor regulations were selected as the most problematic factor for doing business by 10 percent of the survey respondents, surpassed only by inefficient government bureaucracy, corruption, and inadequate supply of infrastructure.

There is little doubt that Mexico’s EPL imposes costs and rigidities on law-abiding employers in the formal sector, but the Mexican labor market is nonetheless quite flexible because of growing levels of informality, flexible interpretation of provisions written into collective contracts, and weak enforcement. The high costs of compliance with the EPL combine with very low costs of non-compliance to create perverse incentives that work against the expansion of high-quality jobs in the formal sector. Among the consequences are job insecurity, low productivity, stagnant wage growth, and heavy reliance on informal social safety nets.

<sup>20</sup> It is worth noting that these two strategies could work at cross-purposes unless accompanied by an educational campaign within the independent unions to encourage workers to think more broadly about the meaning of labor rights.

**FIGURE 3: SHARE OF POPULATION EMPLOYED IN THE INFORMAL SECTOR, 2005 – 2009\***



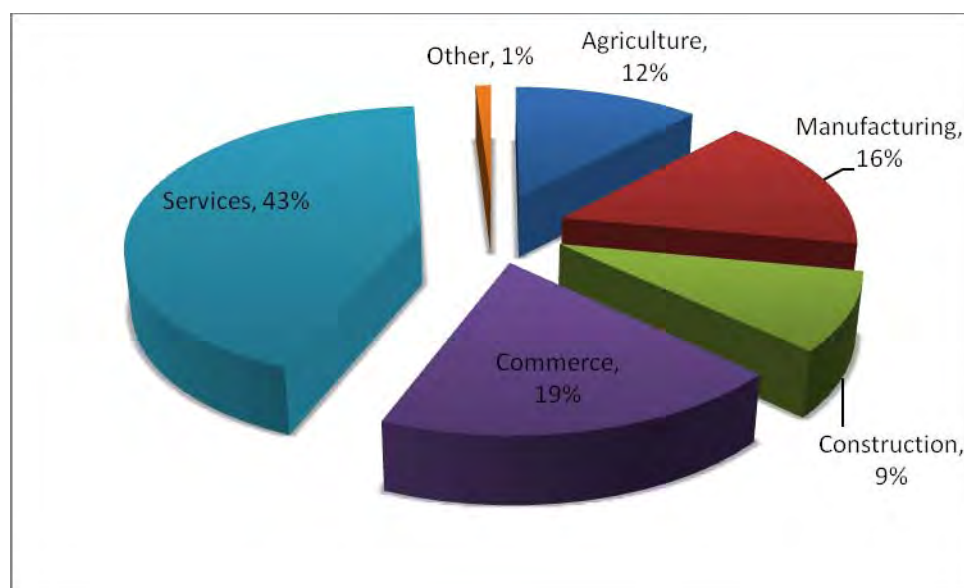
\* Household-based economic activities not formally registered as enterprises.

Source: INEGI 2010a

There are at least two measures of informality in the Mexican labor market. One measure focuses on household-based economic activities that are not formally registered as enterprises. According to the National Survey of Occupation and Employment (ENOE), an average of 27.5 percent of the employed population worked in this sector from 2005 to 2009 (Figure 3). Another measure focuses on the share of the salaried workers covered by social security, which was only 53.3 percent in the last quarter of 2009 (INEGI 2010a). This low rate of coverage is related to the high share of workers in the service sector (Figure 4) and in small enterprises, as well as an increase in outsourcing and subcontracting. Between 1995 and 2009, 47 percent of new jobs were created in enterprises with fewer than five workers (Salas 2010), a trend that has accelerated during the global financial crisis (Table 4). Currently, the most dynamic sites of job creation are micro-enterprises, unskilled self-employment, and domestic service (INEGI 2010b).

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**FIGURE 4: SALARIED WORKERS BY SECTOR, 2008**



Source: Banco de México 2009

**TABLE 4: ABSOLUTE CHANGE IN NUMBER OF JOBS BY SIZE OF ESTABLISHMENT, 2ND QUARTER OF 2008 THROUGH 3RD QUARTER OF 2009**

	2008-2	2008-3	2008-4	2009-1	2009-2	2009-3
1 to 5 people	376,379	-30,599	-626,784	127,409	354,105	847,212
6 to 15 people	-36,497	-83,368	189,091	-231,951	76,552	-42,458
16 to 100 people	98,328	118,403	9,297	-125,328	-14,958	-79,102
101 to 250 people	-19,616	-76,508	4,325	14,576	-28,812	-56,537
251 or more people	89,188	-207,788	-119,572	-13,282	-74,253	-47,736
Not specified	38,237	38,902	173,522	-111,426	116,032	-48,457
<b>Total</b>	<b>546,019</b>	<b>-240,958</b>	<b>-370,121</b>	<b>-340,002</b>	<b>428,666</b>	<b>572,922</b>

Source: Salas 2010

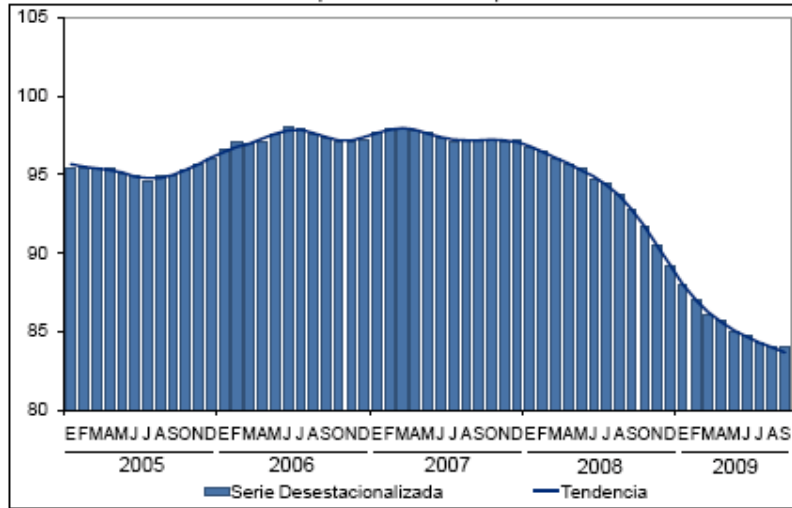
With the exception of the *maquiladora* industry, which expanded in the 1990s and has begun to grow again in recent months, manufacturing employment has steadily declined since the 1980s. To some degree, this decline reflects the partial deindustrialization of the Federal District, which was more dependent on ISI and less attractive to foreign investors than provincial manufacturing centers such as Monterrey, Guadalajara, and Puebla. But even the *maquiladora* industry, which is concentrated along the U.S.-Mexican border, lost jobs after 2000, first as a result of competition with China, especially in the areas of electronics and clothing, and more recently as a result of the global recession. Total employment in the manufacturing sector has declined by around 10 percent since 2005 (Figure 5), and fell by 9.3 percent between September 2008 and September 2009 (Table 5). Related to this, employment in the tradable sector as a share of the labor force fell from 38 percent in 1994 to 31 percent in 2004 (Hausman



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et al. 2009: 34). Moreover, promising signs of recovery in the *maquiladora* industry are jeopardized by the dire security situation along the U.S.-Mexican border, particularly in Ciudad Juarez, leading to labor shortages in these firms.

**FIGURE 5: INDEX OF MANUFACTURING EMPLOYMENT, 2005 – 2009 (2003 = 100)**



Source: INEGI 2009

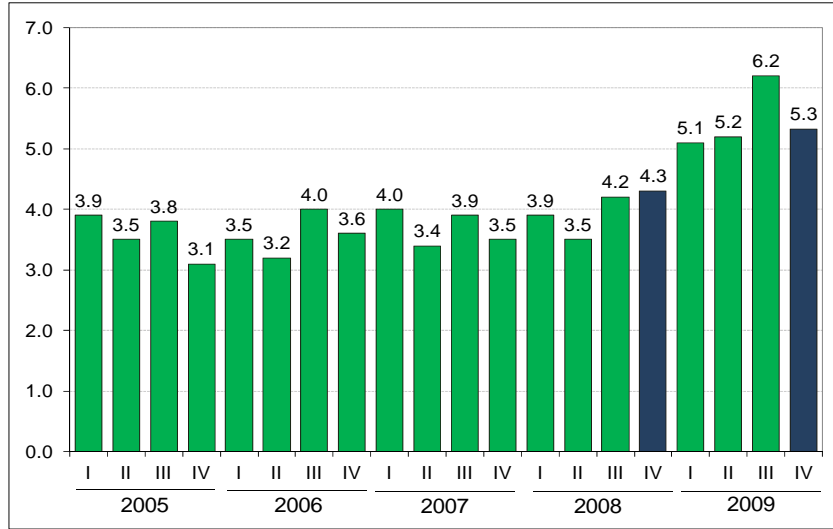
**TABLE 5: SELECTED INDICATORS IN THE MANUFACTURING SECTOR IN SEPTEMBER 2009 (% VARIATION COMPARED TO SAME PERIOD IN PREVIOUS YEAR)**

	September 2009	January – September 2009
<b>Employment</b>	<b>-9.3</b>	<b>-10.2</b>
Blue-Collar	-9.8	-11.4
White-Collar	-8.0	- 7.2
<b>Man-Hours Worked</b>	<b>-8.8</b>	<b>-11.9</b>
Blue-Collar	-9.4	-13.5
White Collar	-6.7	- 8.0
<b>Average Real Remuneration</b>	<b>0.7</b>	<b>0.7</b>
Blue-collar wages	1.6	1.0
White-collar salaries	0.2	- 1.0
Non-wage benefits	-0.9	0.0

Source: INEGI 2009

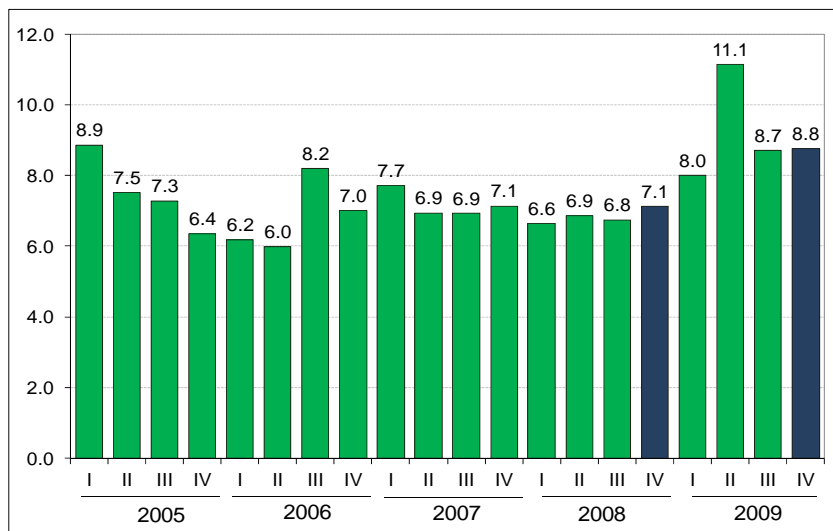
Mexico has historically had low rates of unemployment, although the rate reached 6.2 percent in the third quarter of 2009 (Figure 6). These relatively low numbers, even in the midst of recession, reflect weak savings and the lack of unemployment insurance, both of which drive workers to seek any job they can to support their families. Not coincidentally, a significant share of unemployed workers in the third quarter of 2009 were young (55 percent under 30 years old), well-educated (45 percent above the national average), and not heads of household (77 percent) (Salas 2010).

**FIGURE 6: RATE OF OPEN UNEMPLOYMENT, 2005 – 2009 (%)**



Source: INEGI 2010a

**FIGURE 7: RATE OF UNDER-UNEMPLOYMENT, 2005 – 2009 (%)\***



\* Share of EAP that worked more than one but fewer than 15 hours/week.

Source: INEGI 2010a

A bigger problem in Mexico is the quality of employment. Under-employment, which refers to people who worked more than one hour but fewer than 15 hours in a week, reached 11.1 percent in the second quarter of 2009 before falling to 8.8 percent by the end of the year (Figure 7). At the other extreme, more than a quarter of the employed population works more than 48 hours per week (INEGI 2010a: 5).

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**THE TENDENCY OF MEXICANS TO WORK LONG HOURS IS PARTLY A REFLECTION OF LOW WAGES. THE MINIMUM WAGE FELL BY MORE THAN 25 PERCENT BETWEEN 1994 AND 2009 (TABLE 6), YET MORE THAN ONE-THIRD (38 PERCENT) OF SALARIED WORKERS EARN LESS THAN TWO MINIMUM WAGES (FIGURE 8). ALTHOUGH REAL WAGES GREW STEADILY FROM 1999 THROUGH 2007, THEY FELL BY 4 PERCENT BETWEEN 2008 AND 2009 (**

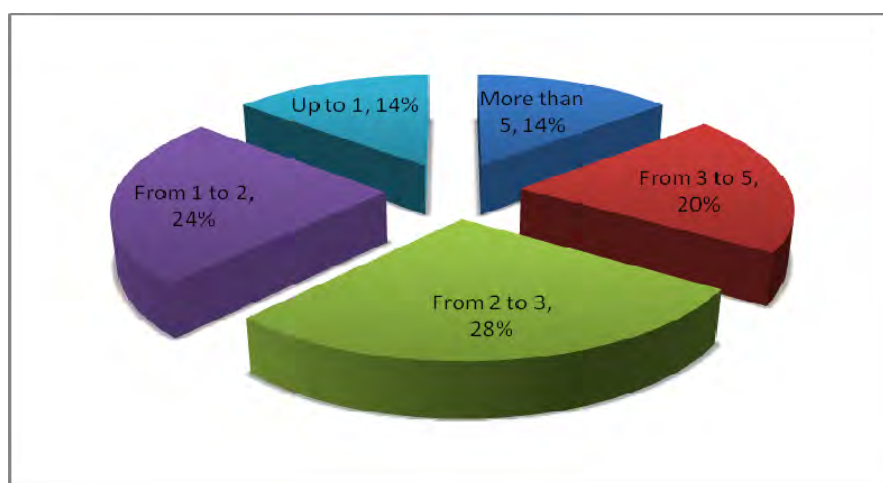
Figure 9). In the manufacturing sector, wages made significant gains in the early 1990s and early 2000s, but they did not recover from their dramatic decline in the 1995–1996 recession until after 2002 (Table 7). During the current crisis, white-collar salaries have continued to grow very slightly, but blue-collar wages have once again declined (Table 7). Meanwhile, the unit cost of manufacturing labor in U.S. dollars fell by 30 percent between 2003 and 2009 (INEGI 2010c), largely as a result of the peso’s devaluation.

**TABLE 6: EVOLUTION OF THE REAL MINIMUM WAGE, 1994 - 2009**

<b>Year</b>	<b>1994 pesos</b>	<b>Index</b>
1994	13.98	100.00
1995	12.08	86.46
1996	10.89	77.91
1997	10.82	77.44
1998	10.90	77.97
1999	10.51	75.22
2000	10.60	75.85
2001	10.65	76.20
2002	10.72	76.71
2003	10.65	76.18
2004	10.50	75.13
2005	10.50	75.10
2006	10.48	75.01
2007	10.42	74.52
2008	10.20	72.98
2009	10.06	72.00

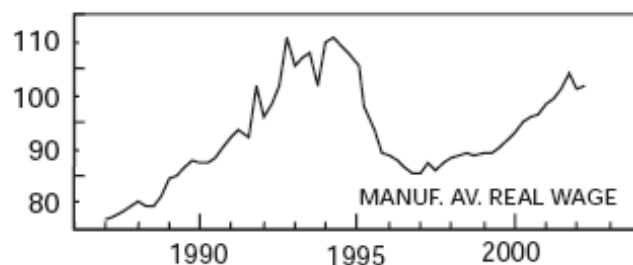
*Source: STPS – CNSM 2010*

**FIGURE 8: SALARIED WORKERS BY INCOME IN NUMBER OF MINIMUM WAGES, 2008**



*Source: Banco de México 2009*

**FIGURE 9: AVERAGE REAL WAGES IN MANUFACTURING, 1987 - 2002**



Source: López V. and López Gallardo 2006: 463

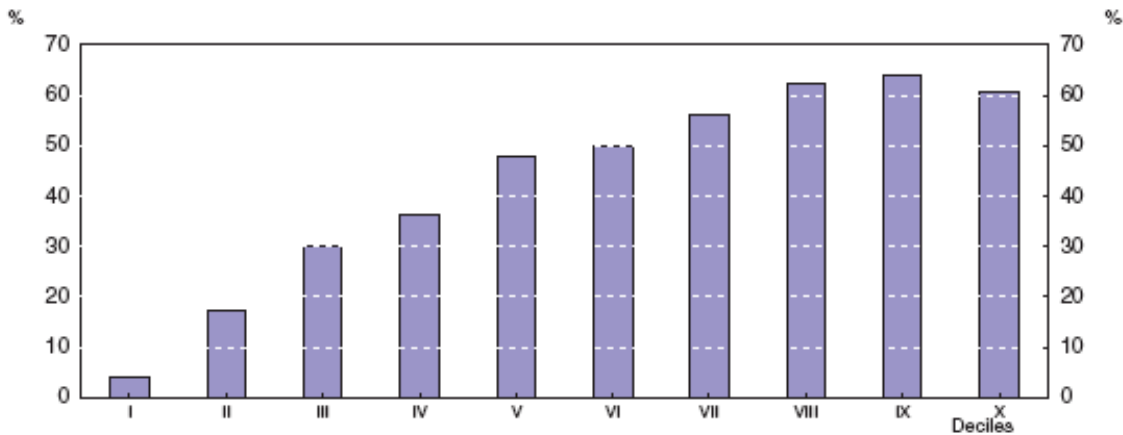
**TABLE 7: AVERAGE MONTHLY INCOME OF SALARIED WORKERS, 14 YEARS AND OLDER, BY GENDER, SECOND QUARTER OF EACH YEAR, 1995 - 2009 (CONSTANT 2002 PESOS)**

Average Monthly Income	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Total	3,514	2,985	2,954	3,042	3,004	3,378	3,556	3,624	3,699	3,733	3,711	3,825	3,925	3,821	3,671
Men	3,790	3,114	3,140	3,215	3,201	3,599	3,799	3,863	3,922	3,969	3,951	4,057	4,194	4,092	3,873
Women	2,947	2,726	2,582	2,703	2,616	2,961	3,098	3,174	3,272	3,296	3,300	3,426	3,470	3,362	3,326

Source: Salas 2010

Although public spending on social protection has tripled since the mid-1980s, it remains limited in scale and unequal in coverage (OECD 2007). The social security system, which provides pensions and health insurance, is regressive, covers only about half of the population, (Figure 10), and involves multiple schemes (IMSS for private sector workers, ISSSTE for government employees, and separate schemes for petroleum workers, high-level government bureaucrats, and other groups). Meanwhile, the rest of the population relies on informal mechanisms (e.g., remittances) and/or new targeted programs such as *Oportunidades* (a conditional cash transfer program) and *Seguro Popular* (health insurance for the poor), which have contributed to lower poverty rates, particularly in rural areas, but have limited coverage and are plagued by the overall poor quality of health and education.

**FIGURE 10: COVERAGE OF HEALTH AND PENSION INSURANCE BY INCOME DECILES\***

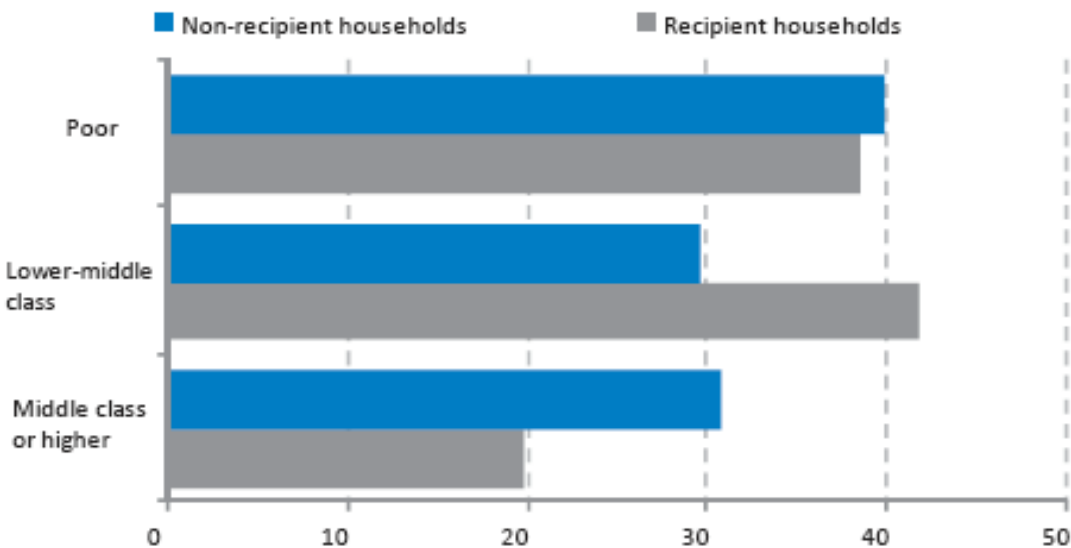


\*Refers to IMSS, ISSSTE, and PEMEX schemes.

Source: OECD 2007

Millions of Mexicans have migrated to the United States, contributing to the consolidation of a transnational labor market. In 2006, more than 11.5 million Mexican immigrants lived in the United States, accounting for one-tenth of the entire population born in Mexico. These workers tend to have relatively low levels of education and to be employed in low-skilled sectors. In a 2006 survey, the most common occupation for Mexican-born men was construction, extraction, and transportation (40.2 percent), followed by service (21.6 percent), whereas the most common occupation for Mexican-born women was service (37.2 percent), followed by manufacturing, extraction, and repair (16.6 percent) (Batalova 2008).

**FIGURE 11: DISTRIBUTION OF HOUSEHOLDS BY SOCIO-ECONOMIC GROUP AND REMITTANCES, 2005**



Source: OECD (2009a)

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Although migrant remittances to Mexico have declined as a result of the global recession, they totaled \$25.1 billion in 2008 (2.3 percent of GDP). According to the 2006 National Survey of Household Income and Expenditure (ENIGH), the monthly average transfer was \$258 and accounted for 34 percent of family income in approximately 1.8 million households (OECD 2009a). Reflecting the high costs of migrating, remittances are most likely to reach lower-middle class households rather than the poorest of the poor (Figure 11). Nonetheless, they play an important role in keeping households out of poverty by providing income and informal social protection. Approximately 80 percent of remittances are spent on basic consumption, health, and education.

## 3.0 ROLE OF THE LABOR SECTOR IN OVERARCHING DEVELOPMENT THEMES

As mentioned earlier in this report, Mexico has embarked on a dual transition to markets and democracy that, ideally, would lead to greater prosperity and justice for the Mexican people. Despite real progress, Mexico continues to work toward more open and competitive institutions in both the economic and political arenas. Today, Mexicans have more choices in the marketplace and at the ballot box, but some experts believe that the positive impact of these choices is diluted by at least four areas where progress and improvements have not been as rapid: (1) rule of law; (2) representation; (3) competitiveness; and (4) income distribution. These challenges are especially acute in the labor sector, which continues to operate under many of the same rules, incentive structures, and leaders as before the dual transition. If progress on these fronts can be made in the labor sector, there should be valuable spill-over effects for the rest of Mexican society.

### 3.1 RULE OF LAW

Experts believe that one of the most persistent legacies of Mexico's dominant-party regime could be the lack of effective and efficient institutions for upholding the rule of law. For 70 years, the president, who also served as *de facto* leader of the ruling party (PRI), had significant meta-constitutional powers that endowed him with considerable discretionary authority. The balance of power among the executive, legislative, and judicial branches has changed dramatically in Mexico since the PRI began to lose its grip on the political system in the 1980s. Today, the president faces real checks and balances from the other branches of government, as well as competing power centers at the subnational level. In addition, the government has adopted some significant reforms requiring greater transparency and accountability by public officials (e.g., a Freedom of Information law).

The proliferation of protection contracts is a paradigmatic example: their propagators are using provisions and loopholes in Mexico's labor legislation to seize new opportunities for economic and political gain. Yet relatively little attention has been paid to how weak rule of law in the labor sector both reflects and exacerbates the broader phenomenon that receives so much attention in the press. The development of stronger mechanisms of transparency, accountability, and enforcement in the labor sector would not only limit the opportunities for malfeasance and enable workers to defend their rights more effectively but would also have implications for the rule of law more generally.

### 3.2 REPRESENTATION

Another challenge that has yet to be fully resolved by Mexico's market opening or transition to democracy is achieving effective representation in institutions that provide intermediation between leaders and their constituent bases. Some experts contend that under the PRI's rule, relations between

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leaders and followers were characterized by a combination of clientelism (the exchange of individual favors for political support) and corporatism (the inclusion of officially sanctioned groups into formal institutions in return for cooperation), both of which provide followers with some benefits but can be highly asymmetrical, top-down, and inequitable. Many observers expected that increased economic and political competition would weaken these systems of intermediation by constraining elite control over resources and providing non-elites with more economic and political choices. The reality, however, has been much less positive. Corporatism has been more severely damaged but, as this report shows, it remains highly relevant to the labor sector, particularly since unions can now credibly threaten to shift their allegiance to a rival party.

At the same time, more democratic systems of intermediation based on competitive elections, representative political parties, and/or a vibrant, pluralistic civil society remain weak. Mexico's elections are much more free and fair than in the past, but some argue there is still room for progress in the degree to which they serve as mechanisms of representation, and that all three major parties continue to suffer from a disconnect between the voters and their elected representatives. Not coincidentally, political parties are widely perceived as untrustworthy and self-serving.<sup>21</sup> Stronger gains have been made in the arena of civil society, which has become far more pluralistic and dynamic since the 1980s, but NGOs and other civic associations are hampered by a lack of access to power and resources within the political system. In this context, non-elite Mexicans continue to have strong incentives to engage in clientelistic exchanges, particularly during periods of economic stress.

Many experts assert that the perceived crisis of representation is even more severe in the labor movement, both within labor organizations and among workers in general. Few Mexican unions follow democratic procedures for leadership selection or decision making, and public opinion polls show very low levels of confidence in unions (see fn. 20). Most union leaders do not prepare the next generation of leadership, meaning that leaders in their dotage are making decisions about workers in their prime. Workers who lack meaningful "voice" in either the political arena or the labor sector can be highly susceptible to less democratic forms of interest intermediation (if not outright coercion). Experts point out that the persistence of these practices in the labor movement contributes to continuing weaknesses in Mexico's democracy and speaks to a broader need to democratize the institutions as well as the procedures of democratic governance.

### **3.3 OBSTACLES TO COMPETITIVENESS**

A third critical component is Mexico's adaptation to the pressures of a more competitive, globalized economy. Although the country's protective labor regulations have contributed to this outcome in sectors with low levels of informality, more significant factors include inadequate investment in infrastructure and human capital, a lack of innovation and upgrading, weak sectoral policy, concentration of ownership, and widespread corruption. The last two factors are structural vestiges of Mexico's pre-transition system that will be very difficult to overcome, but the others are more susceptible to short-term reforms. Yet, Mexico has not undertaken such reforms for at least two reasons: (1) an over-reliance on low wages to promote competitiveness; and (2) insufficient attention to the perverse incentives created by Mexico's *de facto* weak protections for workers.

Mexico's mode of incorporation into the global economy can be characterized as vertical integration into globalized production systems oriented toward exporting to the U.S. market (Ocampo 2004-5: 295). Mexico's trade and foreign direct investment (FDI) are dominated by the United States. Since NAFTA

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<sup>21</sup> Public opinion polls about trust in institutions consistently find that political parties (together with unions) rank at the bottom. See, e.g., Latinobarómetro (2009).



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went into effect, Mexico's annual exports to the U.S. have grown from \$51 billion in 1994 to \$177 billion in 2009 (U.S. Census Bureau 2010), accounting for 80.5% of Mexico's total exports (CIA 2010). In 2008, the U.S. provided 41 percent of all FDI in Mexico, totalling \$8.9 billion and benefiting more than 21,139 companies. In that same year, approximately 40% of U.S. investment in Mexico was directed to the six Mexican border states, which received 58% of all U.S. manufacturing investment in Mexico, primarily in the *maquiladora* industry (U.S. Embassy 2009).

A key element of this strategy is Mexico's access to cheap labor, which presents several problems. First, it is premised on maintaining low living standards, which some experts contend has contributed to the steady flow of Mexican migrants into the United States, as well as the growing appeal of illicit activities, particularly among young people. Ironically, the resulting security crisis along the U.S.-Mexican border threatens the most dynamic sector of the Mexican economy under this strategy: the *maquiladora* industry. Second, although market liberalization and NAFTA initially sparked an increase in manufacturing exports and FDI, the emergence of China as a major competitor revealed the pitfalls of basing the country's competitiveness primarily on labor costs. Mexico may once again be able to compete on the basis of cheap labor with the falling peso and rising Chinese wages, but the country will continue to suffer the negative effects of stagnant wages and be highly vulnerable to price fluctuations beyond the country's control.

Finally, the strategy has failed to generate the high growth rates and rising living standards experienced by other emerging market economies, particularly in Asia. One prominent economist argues that these disappointing results reflect deterioration in the link between external resource transfers and GDP growth:

...the multiplier effects and the technological externalities generated by the high-growth activities associated with exports and FDI have been weak. In a sense, the new dynamic activities have operated as "enclaves" of globalized production networks—that is, they participate actively in international transactions, but much less in the generation of domestic value added. They have thus failed to fully integrate into the economies where they are located and, thus, failed to induce rapid GDP growth (Ocampo 2004-5: 296).

The result is mediocre economic performance and an inadequate reallocation of displaced labor, capital, and technological capacity to dynamic sectors, both of which contribute to increasing unemployment and underemployment. As an alternative, Ocampo calls for a "productive development strategy" that includes countercyclical policies, stronger regulation, active state promotion of linkages between dynamic sectors and the rest of the economy, and targeted investments in infrastructure, human capital, innovation, and upgrading (2004-5: 303-304).

Experts assert that another obstacle to Mexico's competitiveness is, ironically, the state's failure to enforce labor rights, which robs workers of the opportunity to demand better wages and working conditions. In combination with appropriate government policies and changes in union culture, a stronger voice for labor could force companies to remain competitive by improving quality and efficiency rather than holding down wages. In the process, it would encourage employers to share the costs of investing in human capital, innovation, and upgrading, thereby easing the burden on the state. Such an outcome would also require labor authorities to improve workplace inspection and enforcement of labor standards, promote independent and representative unions, and significantly reform Mexico's tripartite institutions in labor administration (CNSM, IMSS, INFONAVIT) and labor justice (JFCA and JLCA). Finally, existing independent unions need to adapt to the dual reality of global integration and decentralization, which calls for strategies that are more flexible and grass-roots.

### **3.4 INCOME DISTRIBUTION**

A fourth challenge is Mexico's inequitable distribution of income, which affects not only economic well-being but also access to social and political resources. Although Mexico's Gini coefficient has fallen in the last decade (from 53.1 in 1998 to 48.2 in 2008), it remains the 28<sup>th</sup> most unequal country in the world (CIA 2010). Not surprisingly, the gains from Mexico's transition to a more market-driven economy have not reached large segments of the population. Moreover, those benefits that do trickle down to the lower quintiles of the income distribution often flow through informal rather than formal channels (e.g., informal enterprises, remittances, drug trade) because of insufficient access to formal markets.

Historically, Mexico's labor institutions have had an ambiguous impact on income distribution. While they helped raise the standard of living of thousands of workers during the period of import substitution industrialization, some experts argue that they also enjoyed privileged access to well-paying jobs and good benefits, and helped to create a tightly controlled "labor aristocracy" in which benefits were not widely shared with workers in general. Such "insider unionism" has arguably worsened in the face of economic crisis and declining rates of union membership, as union leaders and unionized workers seek to maintain considerable privileges. In the meantime, the vast majority of Mexican workers are denied the advantages of collective action in their interaction with employers and the state. Although the democratization of the labor movement would not immediately lead to more equitable conditions for workers, it would expand access to collective rights which, especially if combined with a cultural shift among workers towards demanding their rights and greater engagement in solidaristic activities, could create more favorable conditions for improving the living standards of workers currently excluded from the labor aristocracy.

### **3.5 SYNERGIES AND TENSIONS**

Significant synergies exist among all four challenges, but the critical linchpin is rule of law. Particularly in the wake of democratizing reforms that promote greater competition, pluralism, accountability, and transparency, effective and consistent enforcement of Mexico's laws would go a long way toward (1) strengthening democratic (and weakening non-democratic) systems of interest intermediation; (2) generating stronger incentives to invest in competitiveness strategies that are consistent with wage gains; and (3) promoting more equitable access to economic, social, and political resources. Even in the labor sector, where there has been little progress on the legal front, effective enforcement would dramatically improve the individual and collective rights of workers, thereby improving their ability to exercise voice, pressure employers to seek more equitable means of increasing productivity, and fight for a fairer share of the country's wealth.

Tensions in addressing these four challenges are most likely to emerge as a result of sequencing problems. For example, strengthening unions in the workplace without first democratizing and modernizing the labor movement could lead to further concentration of power by the "insider unions" and a failure to collaborate with employers to improve productivity. Likewise, universal enforcement of Mexico's protective employment legislation without first removing some of its excessive rigidities would most likely have negative consequences for competitiveness, as would raising wages dramatically without first developing effective strategies for realizing productivity gains. Thus, while improving the rule of law is an essential step for any country's development, it is not sufficient.

# 4.0 STRATEGIC CONSIDERATIONS

## FOREIGN ASSISTANCE CONTEXT

Mexico is one of Latin America’s most open economies, which, combined with its nearly 2,000-mile border with the United States, has led to important intersections of interests between the two countries. Mexico runs a large trade surplus with the United States, in contrast to the rest of the world with whom it runs a trade deficit. This renders Mexico highly vulnerable to fluctuations in U.S. demand. Despite efforts by the Mexican government to moderate this external vulnerability, it has contributed to the country’s volatile growth over the last few decades. In fact, the Mexican economy has not just reflected cyclical fluctuations in U.S. consumption, but has tended to magnify them.

The importance of Mexico to the U.S. economy is likewise pronounced, with Mexico being the third largest trading partner of the United States. The importance of the economic and political relations between the two countries has been significantly heightened since 1994 with the launch of NAFTA, the world’s largest free trade agreement, which provides Mexico with privileged access to U.S. markets. This led to a rapid expansion of Mexican manufacturing exports, spurred by the expansion of *maquiladora* operations. However, as a result of a number of factors, the share of manufacturing as a percentage of Mexico’s GDP has actually declined over the last decade in favor of services. In terms of the labor sector, this is significant since manufacturing’s share of formal employment fell from 38 to 28 percent from 1980 to 1987. The importance of Mexico’s labor sector to the U.S.A. has also been heightened by the Merida Initiative, inaugurated in 2007. This three-year, emergency security cooperation package helps Mexico combat drug-trafficking, transnational crime, and money laundering. Activities under this initiative have largely been concentrated in the north of the country, where the majority of *maquiladora* operations are based. The threats to security that triggered the Merida Initiative have had an impact on the pool of labor in the northern states, especially, and so broader USG interests and initiatives regarding security in Mexico have an overlap with labor issues. For all these reasons, to an ever increasing extent, Mexico’s labor sector issues have become important priorities for the United States.

The combination of regional poverty, rising unemployment, increasing instability due to drug violence, and border management challenges create conditions propitious to migration, smuggling, and trafficking. Mexico represents one of the largest sources of immigrants in the United States today (Batalova 2008, Terrazas 2010).<sup>22</sup> U.S. development assistance funds support programs to prevent and prosecute trafficking in persons, and to protect and assist victims.

**TABLE 8: U.S. GOVERNMENT FOREIGN ASSISTANCE TO MEXICO**

('000 \$)	FY09 Actual	FY10 Estimated	FY11 Request
<b>By Account</b>			
Global Health & Child Survival - USAID	2,900	3,458	3,458

<sup>22</sup> According to Terrazas (2010), over 11 million Mexican immigrants resided in the U.S. in 2008, representing 30 percent of all immigrants and 10 percent of all Mexicans.

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Development Assistance	11,200	10,000	26,304
Economic Support Fund	15,000	15,000	10,000
International Narcotics Control & Law Enforcement	360,000	284,000	292,000
Nonproliferation, Anti-Terrorism, Demining, and Related Programs	3,845	3,900	5,700
International Military Education & Training	834	1,050	1,100
Foreign Military Financing	39,000	265,250	8,000
<b>TOTAL</b>	<b>432,779</b>	<b>582,658</b>	<b>346,562</b>
<b>By Objective</b>			
1 Peace & Security	349,829	473,700	112,800
2 Governing Justly & Democratically	69,650	90,000	207,000
3 Investing in People	5,600	7,158	5,762
4 Economic Growth	6,500	11,800	21,000
5 Humanitarian Assistance	1,200		
<b>TOTAL</b>	<b>432,779</b>	<b>582,658</b>	<b>346,562</b>
<b>By Program Area</b>			
1 Peace & Security			
1.1 Counter-Terrorism	3,175	3,000	5,700
1.2 Combating Weapons of Mass Destruction	670	900	-
1.3 Stabilization Ops & Security Sector Reform	100,834	266,300	9,100
1.4 Counter-Narcotics	232,150	193,500	78,000
1.5 Transnational Crime	13,000	10,000	20,000
2 Governing Justly & Democratically			
2.1 Rule of Law & Human Rights	63,500	75,000	179,000
2.2 Good Governance	5,350	14,500	27,000
2.3 Political Competition and Consensus-Building	800	500	1,000
3 Investing in People			
3.1 Health	2,900	3,458	3,458
3.2 Education	2,700	3,700	2,304
4 Economic Growth			
4.6 Private Sector Competitiveness	6,500	3,540	11,000
4.8 Environment	-	8,260	10,000
5 Humanitarian Assistance			
5.2 Disaster Readiness	1,200	-	-
<b>TOTAL</b>	<b>432,779</b>	<b>582,658</b>	<b>346,562</b>

Source: U.S. Department of State, Congressional Budget Justification, Fiscal Year 2011

As seen in the table above, funding for narcotics control, law enforcement, and foreign military financing comprise the largest components of the U.S. assistance program to Mexico. Viewed by foreign assistance program objective, peace and security and governing justly and democratically together comprise over 90 percent of the program.

U.S. democracy and governance programs focus as well on increasing the role of political parties and civil society in formulation of policy with regard to political transparency, justice sector reform, security,

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human rights, and other areas of concern. Reducing corruption and improving the rule of law in Mexico are additional central themes.

USAID's Global Labor Union and NGO Strengthening Program, implemented by the Solidarity Center, focuses on promoting compliance with core labor standards and supporting labor organizing and bargaining capacity-strengthening in key manufacturing and service sectors of the Mexican economy, including auto parts, metallurgy, mining, and media and telecommunications. Another set of activities works to promote competitiveness in Mexico through the identification of best practices for increasing productivity through collective bargaining at workplace and industry levels. In these activities Solidarity Center collaborates with ProDesc, the Trade Union Confederation of the Americas (TUCA), global union federations, and the Institute for Labor Studies. The Solidarity Center program also supports public-private corporate social responsibility initiatives at international, regional, national, and local levels, outlined in Solidarity Center 2003 *Justice for All* analysis of worker rights in Mexico.

### **STRATEGIC RECOMMENDATIONS**

Although transformative change in Mexico's labor sector will require labor law reform and dramatic improvements in enforcement, this report recommends two types of strategic interventions by the USG that promise to generate multiplier effects in favor of rule of law, democratic interest intermediation, competitiveness, and equity (see Appendix A: Results Framework).

The first type of strategic intervention focuses on increased monitoring of labor administration and labor justice by unions and/or civil society organizations to support freedom of association. One recommendation is that independent unions and CSOs launch a campaign to support the recent Supreme Court rulings on secret ballots in *recuentos* and the unconstitutionality of the exclusion clauses. With regard to the *recuentos*, this campaign would involve mobilizing teams of observers, ideally in consultation with CSOs with experience in election observation, to monitor the voting process and report any violations of the secret ballot to the appropriate authorities and/or the press. Given the risk of violence, campaign organizers would be advised to develop strategies for protecting the observer teams, e.g., inviting a media presence and/or working with CSOs or union organizations with a high national and/or international profile. With regard to the exclusion clauses, the campaign would involve filing at least four more lawsuits on behalf of workers fired as a result of the exclusion clauses, which is necessary for any of the decisions to be binding on the lower courts. This initiative would require identifying potential plaintiffs and working closely with lawyers, ideally *pro bono*, to make their cases successfully.

Another recommendation is that independent unions and/or CSOs advocate for the availability of and public access to information about unions and collective contracts, thereby exposing protection contracts and other violations of labor rights. Several states, most notably the Federal District, have already adopted reforms along these lines, but specific, disaggregated information is still very difficult to obtain (Bouzas Ortiz et al., 2009). A promising idea proposed by Dr. José Alfonso Bouzas Ortiz and his colleagues is the creation of an information center, along the lines of the Credit Bureau, to centralize and allow for cross-tabulation of data on collective contracts from around the country (2009: 31).

A third recommendation along these lines is that independent unions and/or CSOs monitor and evaluate disputes related to freedom of association (e.g., denial of union registration, dismissal of workers trying to form a union) and how they are resolved by the labor authorities. Besides exposing the violation of labor rights in specific cases, this initiative would begin to build a database on these disputes, which could be used to compare best and worst practices and develop broader strategies for defending labor rights. Since neither unions nor CSOs have sufficient resources to conduct a comprehensive review of FOA dispute resolution around the country, they should develop a methodology, perhaps in collaboration with scholars, for selecting a limited but illustrative set of case studies.

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The second type of strategic intervention recommended in this report targets union governance and strategy, particularly among independent unions, to enhance union democracy and capacity, promote grass-roots organizing and solidarity with labor-rights CSOs, and encourage greater collaboration with employers to pursue mutually beneficial strategies to enhance competitiveness and equity. Internally, unions are encouraged to adopt statutory reforms aimed at democratizing leadership selection and to engage in leadership training to promote internal democracy and a new culture of organizing. Externally, they are encouraged to develop stronger networks and alliances. Of paramount importance is the use of their resources, experience, and influence to support the organizing efforts of non-unionized workers. They are also encouraged to collaborate more extensively with CSOs, not only on the monitoring and transparency initiatives discussed above, but also to provide legal aid to workers and promote more explicit linkages among labor, human, community, and gender rights. Finally, the report advocates for greater dialogue and collaboration between unions and employers regarding the search for solutions to Mexico's weak competitiveness. In particular, they are encouraged to seek common ground on (1) "negotiated flexibility" to tackle the antiquated features of Mexico's protective labor regulations without leaving workers and unions even more vulnerable to exploitation; and (2) innovative approaches to improving productivity that involve upgrading skills, technology, and routines rather than downgrading working conditions.

# APPENDIX A: RESULTS FRAMEWORK – SPECIAL OBJECTIVE FOR WORKERS’ ORGANIZATIONS

## RESULTS FRAMEWORK – OVERALL CONSIDERATIONS

During the course of the Global Labor Sector Analytic Initiative, a generalized Development Hypothesis and Results Framework (RF) for the labor sector was developed as part of the Programming Handbook (Salinger and Saussier 2010), first presented for comment in June 2009. This handbook synthesizes lessons learned following a series of country-level labor assessments (CoLSAs) conducted by labor sector experts (including lawyers, political scientists, economists, social protection experts, workforce development specialists, and gender experts) in Bangladesh, Cambodia, Honduras, Nigeria, and Ukraine. In addition, a more limited Labor Sector Strategic Outline was developed for Georgia. Following the Labor Forum in June 2009, and subsequent analysis by USAID, this RF was modified (Figure 12). The RF is based on the model of a “well-functioning labor sector” that serves as the conceptual framework for the suite of technical products developed under this Task Order and includes four components: legal framework, institutions, organizations, and markets.

## PROCESS FOR DEVELOPMENT OF THE USAID/MEXICO RESULTS FRAMEWORK

The process of developing a Mexico-specific labor sector Results Framework followed a step-wise approach. The first step involved the preparation of two background documents: (a) a Mexico Labor Assessment drafted by the USAID Knowledge Services Center (August 2009); and (b) a Labor Sector Briefing Note, drafted by a local labor expert, Graciela Bensusan (September 2009), complemented by other information accessed through a review of literature. The second step consisted of field work conducted in Mexico City and Puebla by Katrina Burgess (international labor expert), Graciela Bensusan (local labor expert), Kimberly Ludwig (USAID), and Colin Buckley (USAID) in January/February 2010.

Using the Labor Sector Strategic Objective (SO) and Intermediate Results (IRs) (from the Programming Handbook, in blue), customized Sub-Intermediate Results (Sub-IRs) were developed based on the identified constraints. This is provided in Figure 12. It also indicates where this broad, cross-cutting (i.e., across all four labor sector components) Mexico Labor Sector Results Framework complements, or at least intersects with, the existing USG portfolio in Mexico (in gray).

**FROM THAT RESULTS FRAMEWORK COMBINING GLOBAL OBJECTIVES (SO AND IR) WITH SUB-IR LEVEL, I.E., THE LOWER LEVEL RESULTS NECESSARY TO ACHIEVE THE IRS), FRAMEWORK BASED ON A SPECIAL OBJECTIVE (MISSION LEVEL), WITH SPECIAL INTERMEDIATE RESULTS, THAT FOCUSES ON LABOR SECTOR ORGANIZATIONS (IN RED). THE CUTTING LABOR SECTOR RF FOR MEXICO (HENCE THE STRATEGIC OBJECTIVE) TO ONE ORGANIZATIONS (HENCE A SPECIAL OBJECTIVE) IS PROVIDED IN**

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Figure 13, using Mexico labor sector context derived from the above-cited documentation.

Figure 14 provides a Results Framework for a Worker Organization-focused program in Mexico under the Special Objective, with customized IRs and Sub-IRs. Included in this figure are illustrative custom performance indicators relevant to both the Mexico and global RF. FACTS indicators, not included, would be based on the FAF Assistance Objective elements and/or the Mission's SO Results Framework.



**FIGURE 12: CROSS-CUTTING RESULTS FRAMEWORK FOR THE LABOR SECTOR IN MEXICO**

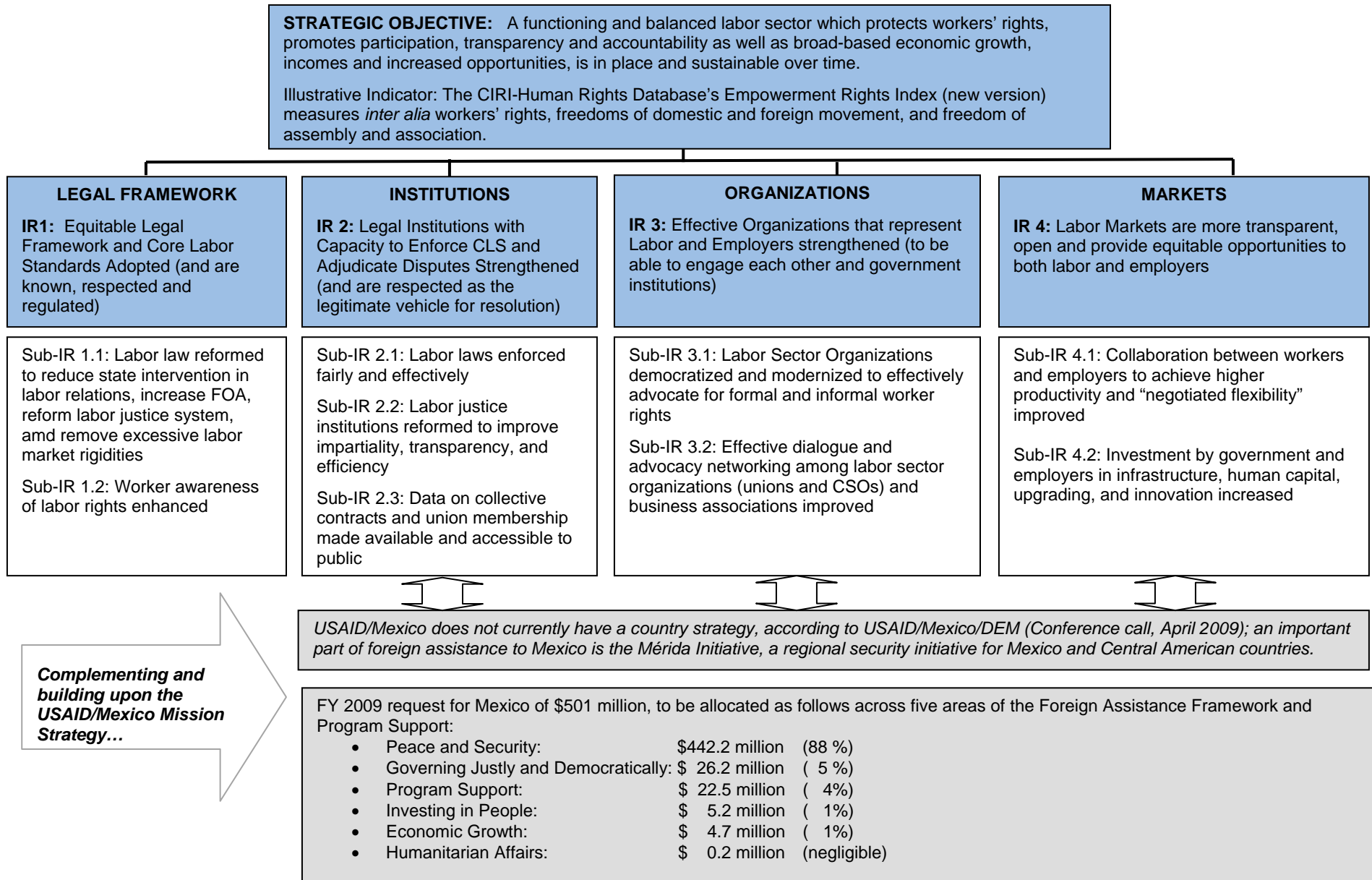
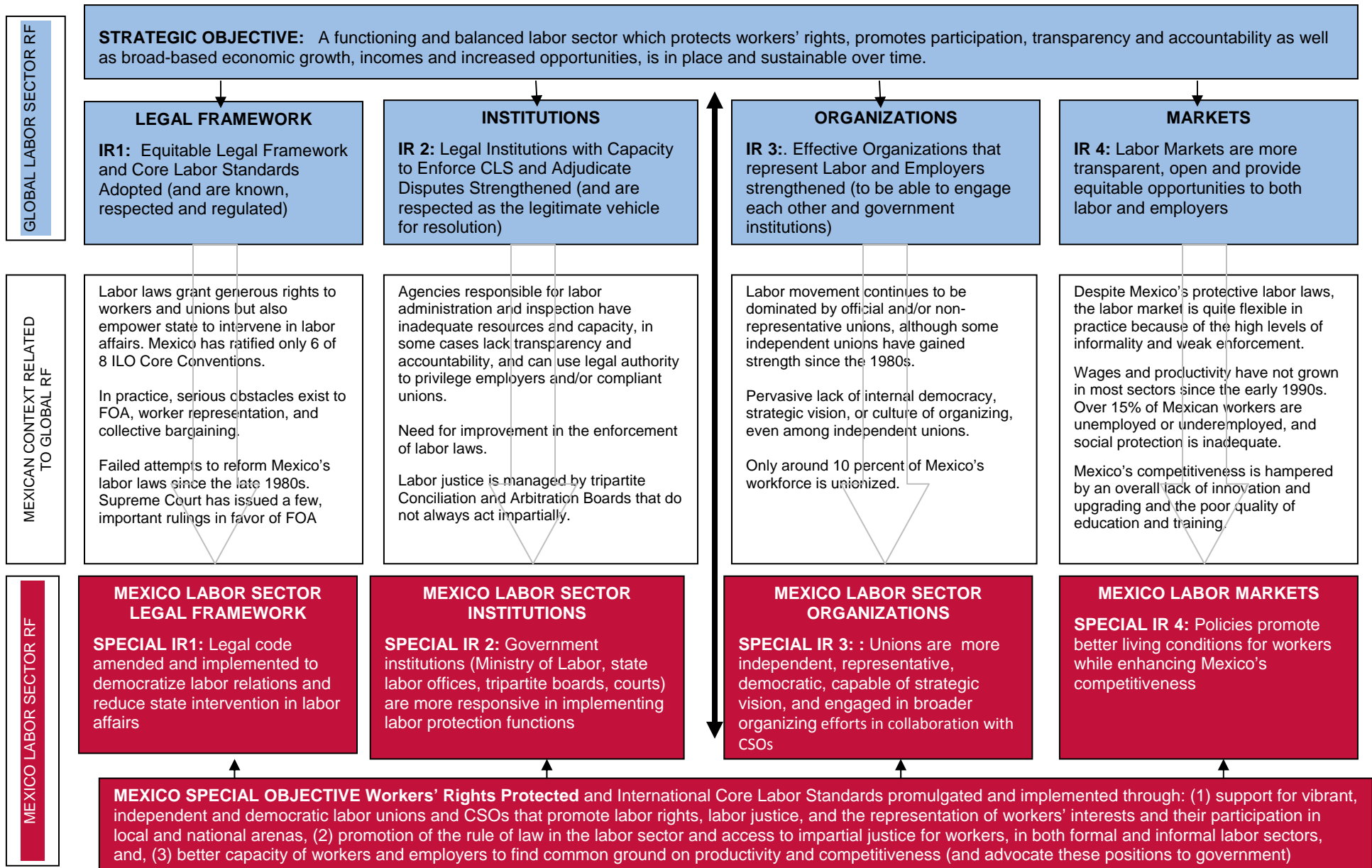
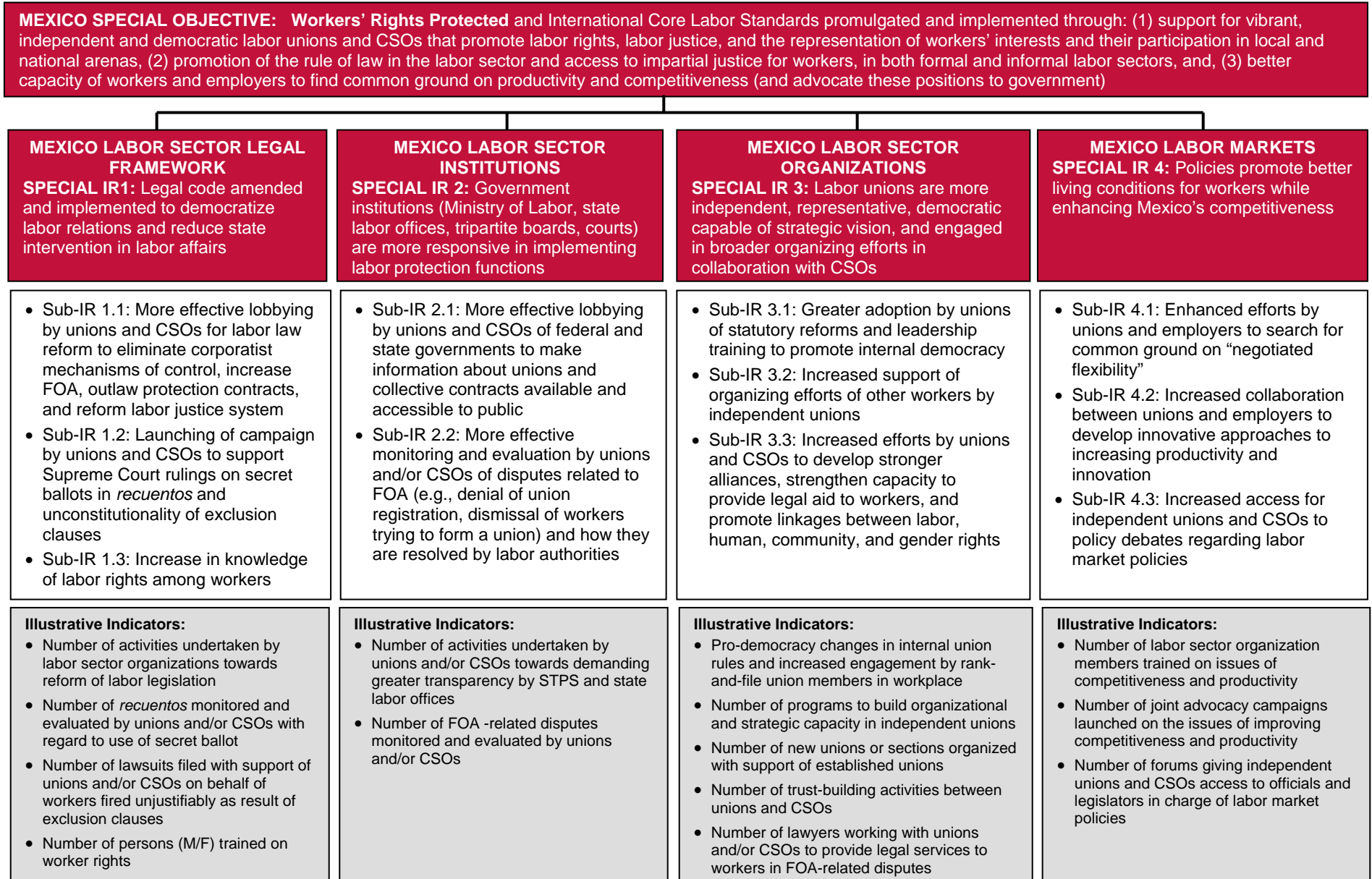


FIGURE 13: TRANSITIONING FROM THE GLOBAL RESULTS FRAMEWORK TO A MEXICO LABOR SECTOR RESULTS FRAMEWORK



**FIGURE 14: PROPOSED RESULTS FRAMEWORK FOR STRENGTHENING THE MEXICO LABOR SECTOR (THROUGH WORKER ORGANIZATIONS)**





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# APPENDIX B: LIST OF MEETINGS

Roberto Alatorre  
Lawyer, Bufete Alatorre-Mendieta

Arturo Alcalde  
Labor Lawyer

Arnulfo Arteaga  
Researcher, Metropolitan Autonomous University (UAM)

Héctor Barba García  
Lawyer, STRM

Verónica Baz  
General Director, Center for Research on Development (CIDAC)

Alfonso Bouzas  
Researcher, Institute of Economic Research (IIE)  
National Autonomous University of Mexico (UNAM)

Benjamin Davis  
Mexico Country Program Director, Solidarity Center, AFL-CIO

Carlos de Buen  
Lawyer, Bufete de Buen

Héctor del la Cueva  
Center for Labor Research and Consulting (CILAS)

Enrique de la Garza  
Researcher, Metropolitan Autonomous University (UAM)

José Merced González Guerra  
General Director, National Center for Social Promotion (CENPROS)

Grupo de Jóvenes (focus group)  
ATENTO, STRM

Francisco Hernández Juárez  
General Secretary, STRM,  
Legislative Deputy, Party of Democratic Revolution (PRD)

Edna Jaime  
General Director, México Evalúa

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Claudio Jones  
Deputy General Director of Strategic Analysis  
Office of the Presidency

Timothy Kessler  
Chief of Party, Abt Associates

Jaime Domingo López Buitrón  
Undersecretary of Labor and Productivity  
Labor Ministry (STPS)

Manuel Molano  
Deputy General Director  
Mexican Competitiveness Institute (IMCO)

Porfirio Muñoz Ledo  
Legislative Deputy, Labor Party (PT)  
Former Secretary of Labor (1972 -1975)

Tomás Natividad  
Lawyer, Natividad Abogados  
Employers Confederation of the Mexican Republic (COPARMEX)

Rita Marcela Robles  
Center of Social Research and Promotion (CIPROS)

Francisco Salazar  
Legislative Deputy, National Action Party (PAN)  
Former Secretary of Labor (2005-2006)

Valeria Scorza  
General Director  
Project on Economic, Social, and Cultural Rights (ProDESC)

Blanca Velásquez  
President, Committee in Support of Workers (CAT)  
(we also met with other CAT staff and held focus groups with workers)

María Xelhuantzi  
Union Adviser  
Telephone Workers' Union of the Mexican Republic (STRM)

# APPENDIX C: REFERENCES

- ARD, Inc. 2009. “Labor Sector Strategic Outline (LaSSO): Pilot Methodology and Scopes of Work.” Burlington, VT.
- Banco de México. 2009. “Principales indicadores salariales en México.”
- Batalova, Jeanne. 2008. “Mexican Immigrants in the United States.” *Migration Information Source*. Washington, DC: Migration Policy Institute.
- Bensusán, Graciela. 2009. “Mexico Context Briefing Note.” Prepared for ARD, Inc.
- Bensusán, Graciela et al. 2007a. “Normas, hechos y percepciones: La situación laboral en la industria del vestido en México.” Resume del Informe Final. Proyecto financiado por la Fundación Levi Strauss.
- \_\_\_\_\_. 2007b. “La industria del vestido en México: La situación laboral y los códigos de conducta.” Presentación preparada para el seminario: Nuevos enfoques de desarrollo regional asociados a la industria de exportación. COLEF-FES, noviembre 9.
- Blanke, Svenja. 2007. “El sindicalismo mexicano: entre la marginación y la recomposición.” *Nueva Sociedad* No. 211: 109-123.
- Bouzas Ortiz, José et al., ed. 2009. *Evaluación de la contratación colectiva en el Distrito Federal*. México, DF: Friedrich Ebert Stiftung.
- Budd, John W. 2008. *Labor Relations: Striking a Balance*, New York: McGraw-Hill Irwin.
- Burgess, Katrina. 2004. *Parties and Unions in the New Global Economy*. Pittsburgh: University of Pittsburgh Press.
- Chottepanda, Med, Paul Lubeck, Chantal Thomas, and Louise D. Williams. 2009. “The Role of the Labor Sector in Promoting U.S. Foreign Assistance Goals: Nigeria Labor Sector Assessment.” Burlington, VT: ARD, Inc., June.
- CIA. 2010. *The World Factbook*.
- Cornell, Angela B., Linn Ann Hammergren, Jorgé Ponce Turcios, and Lynn Salinger. 2009. “The Role of the Labor Sector in Promoting U.S. Foreign Assistance Goals: Honduras Labor Sector Assessment.” Burlington, VT: ARD, Inc.
- Fick, Barbara J., Olga Kupets, Denise Lamaute, Lincoln A. Mitchell, Lynn Salinger, and Asta Zinbo. 2009a. “The Role of the Labor Sector in Promoting U.S. Foreign Assistance Goals: Ukraine Labor Sector Assessment.” Burlington, VT: ARD, Inc., November.
- \_\_\_\_\_, Denise Lamaute, Asta M. Zinbo, and Tsiuri Antadze. 2009b. “Georgia Labor Sector Strategic Outline.” Burlington, VT: ARD, Inc., October.
- Hausman, Ricardo et al. 2009. *The Mexican Competitiveness Report 2009*. Cambridge: 2009 World Economic Forum, Harvard University.
- Human Resources and Skills Development Canada. 2005. “Mexican Labour Law. Review of Public Communication CAN 2003 – 1.”
- INEGI. 2009. “Indicadores del sector manufacturero.” Comunicado Núm. 319/09.

**DRAFT**

- \_\_\_\_\_. 2010a. “Resultados de la Encuesta Nacional de Ocupación y Empleo (2010).” Comunicado Núm. 039/10.
- \_\_\_\_\_. 2010b. “Indicadores oportunos de ocupación y empleo.” Comunicado Núm. 065/10.
- \_\_\_\_\_. 2010c. “Serie desestacionalizada de costos unitarios de mano de obra en México con base en dólares (índice 2003= 100).” Available at: <http://dgcnesyp.inegi.org.mx/cgi-win/bdiecoy.exe/594?s=est&c=13039>.
- ITUPLD. 2009. “Report of the International Trade Union and Parliamentary Leadership Delegation to Mexico, July 9-13, 2009.”
- Kalula, Evance and Ashwini Sukthankar. 2010. “The Labor Sector and U.S. Foreign Assistance Goals: South Africa Labor Sector Assessment.” Draft. Burlington, VT: ARD, Inc.
- Kolben, Kevin and Borany Penh. 2009. “The Role of the Labor Sector in Promoting U.S. Foreign Assistance Goals: Bangladesh Labor Sector Assessment.” Burlington, VT: ARD, Inc.
- Latinobarómetro. 2009. *Informe 2009*. Santiago: Corporación Latinobarómetro.
- Lerner, Michael, Lynn Salinger, and Jeffrey Wheeler. 2008. “The Role of the Labor Sector in Promoting U.S. Foreign Assistance Goals: Cambodia Labor Sector Assessment.” Prepared for USAID/DCHA. Burlington, VT: ARD, Inc.
- López V., Antonia and Julio López Gallardo. 2006. “Manufacturing Real Wages in Mexico.” *Brazilian Journal of Political Economy*. Vol. 6, No. 3: 459-474.
- Middlebrook, Kevin J., and Cirila Quintero Ramirez. 1998. “Protecting workers' rights in Mexico: Local conciliation and arbitration boards, union registration, and conflict resolution in the 1990s.” *Labor Studies Journal* 23.1.
- OECD. 2007. “Creating more and better jobs and reducing poverty.” *OECD Economic Surveys 2007: Mexico*.
- \_\_\_\_\_. 2009a. *Latin American Economic Outlook 2010*.
- \_\_\_\_\_. 2009b. “Pedal to the metal: structural reforms to boost long-term growth and spur recovery from the crisis.” *OECD Economic Surveys 2009: Mexico*.
- Polaski, Sandra. 2010. “Statement of Sandra Polaski, Deputy Undersecretary for International Affairs, U.S. Department of Labor, before the Subcommittee on Terrorism, Nonproliferation and Trade Subcommittee on International Organizations, Human Rights and Oversight Committee on Foreign Affairs, U.S. House of Representatives.” Washington, DC, March 10.
- Posner, Michael. 2010. “Statement of Michael Posner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, before the Subcommittees on Terrorism, Nonproliferation and Trade and International Organizations, Human Rights and Oversight Committee on Foreign Affairs, U. S. House of Representatives,” Washington, DC, March 10.
- ProDESC. 2008. “Lo barato sale caro: Violaciones a los derechos humanos laborales en Wal-Mart México.” México, DF: ProDESC.
- Reichle, Susan. 2010. “International Worker Rights, U.S. Foreign Policy and the International Economy.” Statement for the Record by Acting Assistant Administrator, USAID Bureau for Democracy, Conflict, and Humanitarian Assistance before a joint hearing of the Subcommittee on Terrorism, Nonproliferation and Trade and the Subcommittee on International Organizations, Human Rights and



**DRAFT**

- Oversight Committee on Foreign Affairs, U.S. House of Representatives. Washington, DC, March 10.
- Salas, Carlos P. 2008. "Reporte laboral de México: 2007 annual." Global Policy Network. Available at: <http://www.gpn.org>.
- \_\_\_\_\_. 2010. "Ocupación, desocupación, ingresos y condiciones de trabajo en México." Unpublished manuscript.
- Salinger, Lynn and Jeffrey Wheeler. 2010. "The Role of the Labor Sector in Promoting U.S. Foreign Assistance Goals: Technical Paper." Prepared for USAID, Bureau of Democracy, Conflict, and Humanitarian Affairs, USAID Bureau of Economic Growth, Agriculture, and Trade, and U.S. Department of State, Bureau of Democracy, Human Rights, and Labor. Burlington, VT: ARD, Inc.
- \_\_\_\_\_ and Jeffrey Saussier. 2010. *Labor Sector Programming Handbook*. Burlington, VT: ARD, Inc.
- \_\_\_\_\_ and Jeffrey Wheeler. 2010. *Labor Sector Strategic Assessment Guide*. Burlington, VT: ARD, Inc.
- Schneider, Ben Ross. 2002. "Why is Mexican Business So Organized?" *Latin American Research Review* 37(1): 77-118. Solidarity Center. 2003. *Justice for All: The Struggle for Worker Rights in Mexico*. Washington, DC: American Center for International Labor Solidarity.
- State Department, U.S. 2007. "Framework for U.S. Foreign Assistance." Washington, DC. Available from <http://www.state.gov/f/c23053.htm>.
- STPS – CNSM. 2010a. "Evolución del salario mínimo real." Available at: [http://www.stps.gob.mx/DGIET/web/menu\\_infsector.htm](http://www.stps.gob.mx/DGIET/web/menu_infsector.htm)
- \_\_\_\_\_. 2010b. "Trabajadores asegurados en el IMSS." Available at: [http://www.stps.gob.mx/DGIET/web/menu\\_infsector.htm](http://www.stps.gob.mx/DGIET/web/menu_infsector.htm)
- Terrazas, Aaron. 2010. "Mexican Immigrants in the United States." *Migration Information Source*. Washington, DC: Migration Policy Institute, February.
- U.S. Census Bureau. 2010. Foreign Trade Statistics. Available at: <http://www.census.gov/foreign-trade/balance/c2010.html>.
- U.S. Embassy, Mexico City. 2009. "U.S.-Mexico At a Glance: Foreign Investment."
- World Bank. 2009. "Governance Matters 2009: Worldwide Governance Indicators, 1996-2008." Available at: [http://info.worldbank.org/governance/wgi/sc\\_country.asp](http://info.worldbank.org/governance/wgi/sc_country.asp).
- Xelhuantzi-López, Maria. 2002. *Democracy on Hold: The freedom of union association and protection contracts in Mexico*. Washington, DC: Communication Workers of America.



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