

“Flexibility”: The Labor Strategy of Free Trade

AN EXAMINATION OF SIX
BASIC **LABOR RIGHTS** IN
HONDURAS



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Introduction

The document presented today regarding labor rights in Honduras is part of a collection comprised of seven documents which provide a general examination of the six basic labor rights: one dedicated to each country in Central America, and a general analysis of the region

The six fundamental labor rights analyzed in this series are: Decent working conditions; freedom of association; the right to collective bargaining; the elimination of forced labor and obligatory overtime; the elimination of discrimination; and the elimination of child labor.

Over the course of several years, we have deepened the understanding of different ways in which labor rights are challenged in Central America. The regional investigations and diverse case studies of countries complement our daily work with training, consulting, advocacy, and communication. Through research and action, we have linked ourselves with Central American workers' organizations and with other social sectors that are part of the Central American social movement.

The “Anti-Flexibility Collection” and the document that you have in your hands are the result of ASEPROLA's efforts to synthesize our research and that of other social and institutional organizations of the Central American region, with which we share the mission of promoting and defending labor rights in our respective countries.

In order to obtain the information—of which we provide an overview—we conducted interviews with union leaders from the public and private sector; workers, especially from the *maquila* and agro industrial sectors; labor judges; official authorities from the Ministry of Labor; as well as with labor lawyers, with the objective of identifying—in practice and from different points of view—the principal obstacles to compliance with the labor rights studied.

Additionally, we have collected related studies and information from government organizations, unions, courts, and the Ministry of Labor, in order to include reports, statistics, denunciations, decisions in cases, etc.

We visited centers that housed legal documents, as well as libraries of public institutions, universities, congress and legislative assemblies, in order to investigate various documents and projects of legal reform. This research was reinforced through a disciplined effort to gather a bibliographical normative framework regarding labor at both a national and international level (International Labor Organization [ILO] Conventions).

In the development of this research, we have obtained varied information, but also faced limitations. It is important to note the great importance of the lack of systemic information, including inconsistent record keeping of denunciations by institutions charged with overseeing compliance with labor laws. This is one of the challenges in the

enforcement of labor laws in Central America—if appropriate records, reports, and statistics do not exist, how can the government ensure the protection of labor rights?

Different studies, consultations, and international and national complaints reveal that in the formal sector, basic labor rights are most frequently violated in the maquilas and agricultural industry. The violations vary, but the most common ones are failure to pay salaries, benefits and overtime, or firing workers for using social security services.

In Honduras, the maquila industry expanded in 1978 with the creation of the first export processing zones in the northern part of the country, but it wasn't until the late 1980s, when industrial processing zones were created, that this growth increased more rapidly, especially in the textile sector. In the 1990s, the textile sector grew even more, as a result of a series of “benefits” offered by the government to attract that kind of foreign investment.

Currently, about 11.3% of the maquilas are dedicated to commerce, 13.7% are varied industries, 6.6% provide services for other companies, and 68% are dedicated to the textile industry. The textile industry in particular hires young female workers and is notorious for constantly violating workers' rights. Many complaints have been filed as a result, regarding violations of freedom of association and the closure of factories without paying workers the compensation they are due.

Since that time, the official discourse has been to say that maquilas are necessary because they create jobs. However, this study of six labor rights in Honduras shows that the type of jobs that are being created are not stable, do not respect labor rights, and do not guarantee decent working conditions.

The majority of workers' complaints are in the new industries and agro industries (as well as in the banana sector, which is not new). This means that in the formal sector, there are continuous violations of workers rights, and the types of jobs produced are poor quality. But let us move on to look at some specific data we have gathered on Honduras.

General Information About Honduras

Honduras is located between Guatemala, El Salvador, and Nicaragua. It has a population of about 6.34 million, of whom 3.1 million are men and 3.24 million are women. The annual population growth rate is about 3%.

About 46% of Hondurans live in urban areas, principally in the two largest cities: Tegucigalpa, the capital, which has about 1 million inhabitants, and San Pedro Sula, located in the northwest part of the country, which has over a half million residents. During the time between the last two censuses, the concentration of the population in urban areas was characterized by increased female migration to the cities.

The Economically Active Population (EAP) is 2.438 million (53%), of which 71.6% are men and 36.3% are women. The per capita income of Honduran homes is 1,211 lempiras (about US\$67) per month.

In the context of Latin America, Honduras is one of the most undeveloped countries. In 2002, it was ranked number 116 of 173 countries worldwide in terms of development. The average annual income per person was US\$ 2,453 that year. That is quite low compared to the average of US\$ 7,234 in Latin America in general.

Honduras is also ranked below other Central American and Latin American countries in the Human Development Index¹. In 2003, it had an index of 0.638. This indicates that the country's development, rather than growing, is diminishing.

The situation in Honduras is disheartening, because 64.4% of its population lives in true poverty, lacking the essential elements necessary to develop their capacity as human beings. In the global Human Poverty Index, Honduras ranks 36th out of 88 countries, lower than Costa Rica (2) and El Salvador (32).

Health

Life expectancy in Honduras is 65.7 years, considerably lower than in Costa Rica (76.4) and Panama (74). Life expectancy is higher for women, due to men's greater involvement in acts of violence. In 1992, the death rate as a result of homicides was 68 for every thousand men and 9 for every thousand women.

Every five hours a woman (aged 12-50) dies as a result of pregnancy or childbirth, and 67% of these deaths happen outside of a hospital. Abortion and its complications (infections and hemorrhaging) represent 9%.

Deaths due to pregnancy, childbirth, and tumors are among the five principal causes of death for women of childbearing age. Cervical cancer causes 40% of the tumor-related deaths, and 13% is due to other types of gynecological cancer related to reproductive and sexual health.

These figures show that women of childbearing age (48% of the female population) are dying from preventable causes: insufficient medical attention, lack of information and education, and discrimination against their reproductive rights. The State has little interest in prioritizing and assigning resources to resolve women's health problems.

¹ The Human Development Index measures a country's achievements in three aspects of human development: longevity, knowledge, and a decent standard of living. Longevity is measured by life expectancy at birth; knowledge is measured by a combination of the adult literacy rate and the combined gross primary, secondary, and tertiary enrolment ratio; and standard of living, as measured by GDP per capita (PPP US\$). (UNDP)

Of all of the female deaths due to trauma and poisoning, 30.5% were due to homicide and 32% were accidents, which show the social cost of violence against women. Domestic violence also leads to the death of eight women each month.

Education

Honduras is even farther behind its Central American counterparts in terms of education, since the average Honduran has only five years of schooling.

The school attendance rate among females is higher than it is for males, but only at the elementary level. About 39% of females over age 10 have not advanced beyond third grade.

These indicators do not differ significantly for males. The result is that the low levels of education are affecting all Hondurans' ability to access jobs and earn higher incomes.

About the context

In the past two decades, Honduras suffered the effects of the Central American crisis. During the 1980s, the country was used by the rearguard of the armed conflicts in Nicaragua and El Salvador. It was also used for North American military bases and received thousands of refugees from neighboring countries. While known as "the country where there was no war," it served as a place for different regional forces to mobilize, which had a high social, environmental, and human cost.

In effect, the displaced, exiled, and disappeared persons, the increase in organized crime, the growing foreign interference in domestic issues, the application of the State's national security doctrine (with a resulting loss in citizen security), and increased poverty, were the factors that worsened the structural crisis and the deterioration in the quality of life.

In the 1990s, the peace accords in the region and the formal democratization processes coincided with the application of neoliberal economic policies. These measures were implemented through the increasingly notorious intervention of international financial institutions, in order to include the country in the globalization process.

The measures included: privatizing state services; reforms to increase taxes on consumption; restriction of credit and increasing interest rates which reduced access for small and medium-sized companies; eliminating agrarian reform by applying the Law of Agricultural Modernization which promotes privatization; and reducing public spending, thus lowering the quality and coverage of the State's social services.

Between 1989 and 1995, the government's budget was reduced from US\$ 1.308 billion to US\$ 810 million, reducing resources for health by 26%, for education by 56%, and for social security by 63%. The lack of job opportunities and social benefits for large

sectors of the population contributed to the spread of poverty. According to the Central Bank (1996), per capita income was US\$ 1,122 in 1989 and only US\$ 500 in 1995.

More recently, governments have seen the opening of the country to maquilas through the approval of special laws to be the immediate solution to stop the growing unemployment and combat poverty.

Women in Honduras

Women have been the most affected by poverty in recent years: 78% of Honduran women are poor, and 65% of these women suffer extreme poverty.

The number of homes headed by women has grown in the last decade, representing in 1994 about 24% of urban homes. Of women-headed households, 76% are poor or extremely poor. In 45% of these homes, the woman is the only family member who works to provide income for the home.

In the Gender-related Development Index², Honduras is ranked 103rd out of 146 countries (GDI = 0.5).

Women's job training opportunities are more limited. Of the Professional Formation Institute (INFOP) graduates in 1995, 59% were men and 41% were women. High-level technical training courses are more accessible for men than for women.

Decent Working Conditions

Legal framework

Constitution:

- Article 128, Num 6: Establishes the employers' responsibility to comply with legal regulations on health and safety, adopting measures to prevent occupational risks and protecting the physical and mental integrity of the workers, including agricultural workers. Establishes special protection for women and children.
- Article 128 Num 12: *“Employers are required to compensate workers for work-related accidents and illnesses.”*

Labor Code:

- Title V and Chapter 1 of Occupational Health and Safety: Establish employers' responsibility for guaranteeing safe work locations and equipment. Applies measures regarding unsafe situations, substances, and toxic waste. Establishes employers' obligation to pay compensation, when the Social Security Institute

² A composite index measuring average achievement in the three basic dimensions captured in the human development index—a long and healthy life, knowledge and a decent standard of living—adjusted to account for inequalities between men and women. (UNDP)

does not. Workers' negligence does not exempt the employer from this responsibility.

- Article 142: Requires employers with more than 20 workers to provide a space for women to feed their children under three years of age, where they can also leave their children during the workday under the care of an appropriate person paid by the employer.
- Article 145: "*The State will preserve the environment to protect people's health.*"
- Chapter VI: Discusses every person's right to secure economic means if they are incapacitated and thus unable to work or find work.
- The Honduran Social Security Institute (IHSS) is the institution responsible for lending and administering social security services through its different divisions: Illness, Work-related accidents, Maternity, Demonstrated unemployment, Family subsidies, Occupational illnesses, and old age. All employers must register all of their workers with IHSS.

Social Security Law:

- Article 42 (reformed): Establishes that IHSS should pay the benefits due in the case of a work-related accident or illness.

ILO Conventions:

Ratified by Honduras:

- Convention 29, concerning Forced or Compulsory Labor, 1930.
Ratified February 21, 1957.
- Convention 32, on Protection against Accidents (dock workers), 1932.
Ratified November 17, 1964.
- Convention 95, the Protection of Wages, 1949.
Ratified June 20, 1960.
- Convention 100, on Equal Pay, 1951.
Ratified August 9, 1956.
- Convention 138, on the Minimum Age for Admission to Employment, 1973.
Ratified on June 9, 1980.

Not ratified by Honduras:

- Convention 99, Minimum Wage Fixing Machinery in Agriculture, 1951.
- Convention 131, concerning Minimum Wage Fixing, with Special Reference to Developing Countries, 1970.
- Convention 161, concerning Occupational Health Services, 1985.

What happens in practice with decent working conditions?

There is a rich and varied legal framework in terms of the different issues related to decent working conditions: salaries, working hours, social security, occupational health, unemployment compensation, vacations, days off, maternity and nursing.

But this legal context has no relationship to the current reality, first because there are contradictions within the laws themselves, and gaps that make it hard to apply the law, and second because in practice the right to decent working conditions is constantly violated.

Few countries have Constitutions that specifically address occupational health and safety and other issues, like the Honduran Constitution does. However, the Ministry of Labor is indifferent to the unfavorable conditions that workers face.

Despite the numerous complaints filed for occupational health and safety problems, pay abnormalities, and physical or verbal mistreatment, the Labor Inspectorate does not investigate these complaints. In cases where the employer is found to be responsible, these companies are not sanctioned.

In the maquila industry and some agricultural industries, workers work under conditions that assure high productivity and the neutralization of labor conflicts. To achieve sustained production over the course of the workday, the system functions based on a strict organization: series of tasks, pay by piecework, and rigorous schedules. These working conditions are adapted to a national reality in which poverty; unemployment and underemployment guarantee that employers will easily find fill job openings, despite the extreme exploitation.

As a result, when there is a legal system that is too “flexible”, the companies will increase productivity as much as they can in order to maximize profits.

In Honduras, the situation of health and safety in the workplace is hard to study, because the Honduran Social Security Institute does not have statistical data on this issue. However, we used the IHSS Statistical Yearbook for 1998 which says that the parameters for work-related accidents were the following:

There were 2,179 work-related accidents, of which 30.7% occurred in Tegucigalpa, 50.3% in San Pedro Sula, and 19% in the rest of the country. This represents an increase of 57.2% in work-related accidents in comparison with 1997.

By economic activity, most work-related accidents happened in the manufacturing industry (58% in 1998). Fifteen percent of accidents occurred in the service sector, and 6.3% in the financial establishments.

In terms of accidents reported according to job, we have some examples:

- a) Spinners, weavers, dry cleaners and related workers suffered 28.2% of the work-related accidents. The workplace environment caused 36.1% of these accidents.
- b) Professional and technical workers suffered 9.4% of work-related accidents. The workplace environment caused 15% of these accidents.

Men suffered 86.7% and women suffered 13.3% of the work-related accidents. Here we must emphasize that in the sector of spinners and weavers, most workers are women, and they rarely make use of legal remedies and are have less insurance coverage for labor risks. As a result, the statistic reported for women does not necessarily reflect reality. In the case of the maquilas, there are many women suffering from work-related illnesses, and most of these women are not covered by insurance. Conditions for women workers are just as bad in the agricultural industries, where they also lack insurance and work under dangerous conditions.

More than 82.8% of the work-related accidents happen to people between the ages of 15 and 39.

All of these figures are from the IHSS statistical record, but the real figures regarding workplace accidents and illnesses are much higher for workers of both sexes. In Honduras, most of the people who suffer from work-related accidents are not covered by insurance or registered with IHSS.

Flexibility in reality

In the maquiladora companies, we find that the law is often not applied, making it ineffective for most workers.

This consistent problem indicates a true flexibility in terms of occupational health and safety and in the other issues related to decent working conditions.

Below we will present some situations that present themselves in the maquila but that also apply to other sectors, such as agriculture and the informal sector.

- Although the salary should be paid in legal tender, in the Honduran maquila factories there are veiled ways of restricting salaries, through bonuses that depend on the employer's good will. For example, in the Choloma and Villanueva factories, 88% of women workers are paid by piecework, with a salary based on the production goal. The workers produce between 800 and 1000 pieces of clothing daily, which equals two to four pieces per minute.
- In most maquilas, overtime is not paid correctly, and the workers do not know if the pay they receive is for the normal workday or for overtime.
- In general, workers work a minimum of 44 hours per week in all of the factories. In the Choloma and Villanueva maquilas, 77% of the workers work overtime, which is obligatory for 1/3 of them.
- Workers often work from Sunday to Sunday, according to the company's requirements, without respect for the weekly rest time.
- There are many complaints filed for employers' refusal to give workers permission to miss work to go to prenatal medical appointments.
- Maternity leave is not respected.
- IHSS generally does not have the prescribed medicines and the sick worker must pay for the medicine.

- Workers are in a strictly controlled environment: they cannot speak, they are given specific times to go to the bathroom, and they are given only 10-minute breaks in the morning and afternoon and a half-hour for lunch.
- Workers suffer from permanent aches, fainting, depression, stress, contagious and chronic illnesses, deformations, swelling of the feet and hands, allergies, burns, respiratory problems, and other problems related to poor working conditions.
- Employers generate competition between workers by establishing production goals and incentives. This creates high levels of stress and causes individualism and separation among workers. Workers who are unable to meet the high production goals may lose their jobs.
- The factories are noisy, contaminated, and cluttered. Relations are tense and highly stressful. Supervisors abuse and sexually harass workers. These conditions cause health problems in workers that can lead to the loss of their jobs.

Cases of incompliance

In Honduras, we will look at the case of Choloma and Villanueva, where the maquila factories have working conditions with the following characteristics:

- High turnover rates: 79% of interviewed workers at Villanueva had been at the same job for less than one year.
- Work shifts longer than 9 hours.
- Overtime: 77% of interviewed workers had worked overtime, and 1/3 of these workers said that the overtime work was obligatory.
- Salaries based on production goals: 88% of interviewed workers have a salary determined by the production goal in addition to a set base wage. That is to say, that each day workers must produce a certain number of pieces. If they have not finished this goal by the end of the normal workday, they must work overtime until they finish, even though they are not paid extra for these hours.

In Honduras, it is the responsibility of the Dirección General de Previsión Social to approve the Special Safety and Hygiene Regulations at all companies with more than 10 permanent workers, within three months of opening the company or workplace.

The process for approving the Special Regulations is slow and difficult. This means that many companies do not start the process on time, or delay in presenting the documents.

Furthermore, in most cases, the regulations are created by the Labor Inspectors, who do not know the reality in the companies, or have expertise on occupational health and safety issues. So many regulations are not specific to the industry or workplace where they should be applied.

The most serious criticism of the approval of these special regulations is that they only serve to legalize a document. The real problem is that they do not establish measures of prevention, control, and sanctions for violations of the law.

Obstacles to compliance with this right

Legal obstacles:

- Many of the laws approved by Congress do not relate a text approved one year to laws approved in previous years. In each new administration, legislators want to pass their own new laws. In many cases, no study is done of how these laws relate to existing laws. Laws can therefore be contradictory.
- The terrible working conditions and deficiencies in workers' health and safety indicate a serious violation of ILO Conventions. One obstacle is employers' lack of compliance with Labor Code provisions. The Secretary of Labor and its divisions also fail to fulfill their responsibility of monitoring compliance with these laws.

Political obstacles:

- Efforts to hide the problems: Investigations are promised that never happen.
- Government officials are not interested in confronting and denouncing violations, and punishing the people and companies who are responsible.

Practical obstacles:

- Institutionalized culture of disrespect for labor rights.
- Jobs are harder and harder to find, so workers must submit to being exploited and mistreated, without complaining or trying to organize. This becomes institutionalized when there are no adequate legal, administrative, or political spaces to correct the situation.
- On many occasions, the laws cannot be applied because there are no procedures in place to guarantee them.
- State officials, judges, and labor inspectors are complacent and unaware of many of the problems.
- There is no effective coordination between the different institutions that work on cases of violations.
- The Ministry of Labor is indifferent to working conditions that are unfavorable for workers.

Freedom of Association

Legal framework

Constitution:

- Article 134: There are no special administrative or judicial procedures to review the firings of unionists. The same process is followed to investigate and resolve these cases as is used with regard to the dismissal of non-unionized workers.

Labor Code:

- Article 21: Excludes agricultural workers at places with fewer than 10 permanent workers from the right to freedom of association.
- Article 475: Indicates the need to have the support of at least 30 workers to form a union.
- Article 510c and 541c: Prohibit foreigners from occupying leadership roles in a union.
- Articles 10 and 469: Prohibit labor practices that impede or limit the free exercise of freedom of association.
- Article 517: Prohibits job transfers before or after the formation of a union. *“The groups that enjoy protection from unfair dismissal are the workers who try to create or organize a union, and the union leaders.”*
- Article 113: When employers fail to comply with judicial orders to reinstate unionists in their jobs, they can be ordered to do so.
- Article 472: The army and the police can form unions, but they cannot bargain collectively. Furthermore, within a single company, institution, or establishment, there cannot be more than one workers’ union.
- Article 504: 90% of a union’s affiliates must be Honduran workers.

Police law:

- Prohibits security guards from forming unions.

Legislative decrees:

- Number 43-97: Reforms Articles 20 and 35 of the Minimum Wage Law, allowing for it to be revised at least once a year, and establishing an EDUCATION BONUS for families.
- Number 179-97: Reforms Articles 1 and 9 of the Seventh Day and Third Month Law, in terms of bonuses.
- Number 218-97: Statute Law of Social Workers: regulates labor relations between the social worker and the contractor.

ILO Conventions:

Ratified:

- Convention 87, on freedom of association and protection of the right to unionize, 1948. Ratified June 27, 1956.
- Convention 98, on the right to unionize and bargain collectively, 1949. Ratified June 27, 1956.

What happens in practice with freedom of association?

While there is formal recognition in Honduras of the right to freedom of association, there are also mechanisms of state control over union activities, both in terms of their creation and registration and in terms of their functioning. These regulations

restrict freedom of association, allowing us to state that in Honduras there is legal flexibility in terms of union autonomy.

It continues to be necessary to have the recognition of the State for a union to exist in Honduras. Inscription in the state registries is not just a publicity requirement, but also a necessary authorization for the union to be able to function.

The ILO Committee on Freedom of Association does not believe that union registration, when it is a simple formality, violates Convention 87. However, it says it is a violation of freedom of association when the authorities can use their discretion to deny a union's registration, or when *“a registration process is long and complicated or the freedom that administrative authorities have to exercise their functions in practice represents a series obstacle to the creation of a union, and impedes the right to create an organization without prior authorization.”*

In the case of Honduras, there is no law that extends the allowable period for the registration of a union, but in practice there are often obstacles and delays in this process.

Decree 10-97 from February 26, 1997, called the Regulations for Union Associations, also openly violates freedom of association. This decree imposes illegal obligations and requirements that limit union organizations' right to freely create their statutes and regulations. These regulations define the maximum number of general assemblies and the quorum of these, the issues that should be discussed in extraordinary assemblies and the votes needed in each case. It also expressly establishes the possibility that the Ministry of Labor's Department of Union Associations can directly convoke the assembly, and authorizes the presence of administrative authorities at a union's assemblies. These are clear violations of freedom of association.

All of these regulations are the justification and mechanism for a series of violations of freedom of association.

Deregulation

The Honduran Labor Code has clauses that decrease freedom of association by establishing provisions and obstacles for the creation of unions. These include the following:

- The need to have at least 30 people to create a union. This prevents unionization at small and medium-sized companies (Article 475).
- The number of union members who are not Honduran citizens is limited to 10%. This discriminates against foreign workers and prevents them from fully participating in unions, violating the principles of freedom of association.
- Foreigners are also prohibited from holding leadership positions in unions (Article 510), which constitutes discrimination and violates ILO Convention 87, which says that unionized workers should be able to freely elect their leaders.

- Within the same company, institution or establishment, there can not be more than one union, and if somehow there end up being two or more, only the one with the most members will remain (Article 472). Workers are also prohibited from belonging to more than one union (Article 476). Both of these regulations limit union plurality.
- There are no specific regulations addressing employers' non-interference in unions. This shows a failure to comply with Article 2.1 of ILO Convention 98, which establishes that unions should enjoy adequate protection against any interference by an employer that is intended to place the unions under the control of the employer or an employers' organization.
- If the number of union members drops below 30, labor law allows the Ministry of Labor to dissolve the union. This violates Article 4 of ILO Convention 87, which prohibits unions from being dissolved through administrative processes. Only the union members themselves can dissolve a union, and in extreme cases, only a decision by the Labor Court can make the dissolution effective.
- The police law prohibits security guards from unionizing, which violates freedom of association.
- *Fuero sindical* does not provide special protection for all union leaders, or for candidates for leadership positions. The special protection applies only to members of the Central board of directors, and not to leaders of the union's branches and subdivisions.
- There is no special procedure for addressing the dismissals of union leaders. The worker must use the ordinary procedure, which delays his or her reinstatement.

In addition, there are also legal provisions that restrict the right to strike. Honduran labor law prohibits strikes in essential services related to life, health, and safety (Article 243 of the Labor Code).

Workers in the public transportation and services related to gas are also prohibited from striking. Thus the idea of "essential services" has been extended to other activities that do not merit being placed in that category, thus restricting more workers from exercising the right to strike. Public employees are also prohibited from striking in solidarity with other unions.

Legal flexibility

In Honduras, we observe legal flexibility when administrative and judicial authorities have restrictive interpretations of labor laws. The direct consequence of a restrictive interpretation by these authorities is to impede the exercise of freedom of association. To illustrate this point, we can cite the following example:

The Ministry of Labor refuses to register union organizations of private security guards because it considers private security services to be included in the "police forces or bodies" that the Constitution prevents from unionizing.

This constitutes discrimination against this sector of workers, because a restrictive interpretation of Article 534 of the Labor Code is used to prevent union organizing, in violation of ILO Convention 98.

Another interesting issue is that even though Article 128.13 of the Honduran Constitution establishes workers' right to strike, the exercise of this right is generally linked to the failure of state mechanisms of conflict resolution, restricted to certain activities and a narrow set of conditions and requirements set by the law. Article 241 of the Labor Code requires that ½ plus one of the workers support the decision to strike.

Flexibility in practice

Flexibility happens in practice when, for example, there are delays in processing the legal recognition of a union. Despite the fact that the Labor Code says that this must happen within 30 days, in practice the Ministry of Labor delays the process and the paperwork, impeding the exercise of freedom of association.

This type of flexibility is seen in the case of maquila companies. It is manifested in the following ways:

- The nonexistence of unions in maquilas. This is due to the fierce resistance to unions of maquila owners that belong to AMHA. These companies argue that production decreases at unionized factories, making them less competitive and contributing to a decrease in foreign investment in Honduras.
- The government in general and the Secretary of Labor in particular do not guarantee workers' rights. On the contrary, they are more interested in assuring foreign investment.
- Workers are afraid that they will be fired if they join a union. Union leaders are not always in tune with women workers' needs, and do not understand that the maquila sector, which is primarily comprised of young women workers, requires a specific gender perspective. Women have been considered less important in a union structure historically composed of men.
- State security agents systematically repress unionization attempts through firings, detentions, and physical abuse, *"to guarantee the security of investments."*

Cases of in compliance

1. International Confederation of Free Trade Unions (ICFTU) complaint against the government of Honduras

In 1992, the ILO Committee on Freedom of Association issued Report 283 regarding the ICFTU's complaints of the following violations of freedom of association committed by Honduran companies:

- Solidarity associations were assuming union functions (like collective bargaining) with the support of companies and the government;

- Workers and union leaders were fired from the “El Mochito” mine, and the strike that began soon after was violently repressed, resulting in one death and more than 20 people wounded;
- The suspension and firing of workers at the Polymer Industrial company;
- Workers at Cervecería Honduras and Polymer were told they could only belong to solidarity associations if they did not belong to a union;
- Anti-union dismissals at 10 companies, which the Honduran government itself recognized: Kativo de Honduras, Pinturas Surekota SA, Textiles San Pedro, Polytubo, Hondufibras, Polyproductos SA, Termoplast, Banco de Ahorro Hondureño, Banco Futuro, and the Shrimp Company Group from the southern part of the country.

2. The case of the Kimi company, installed under the export processing zone regime

In October 1996, a conflict began in the Korean maquila Kimi de Honduras, when workers tried to legalize a union and collectively bargain. Kimi employed about 500 workers. It refused to recognize the union, despite the fact that the workers had turned all necessary documentation in to the Ministry of Labor.

The company fired various workers, and a 12-day strike began with the support of the Central Unitaria de Trabajadores de Honduras (CUTH) and the Federacion Independiente de Trabajadores Hondureños (FITH). A national and international campaign began, demanding the reinstatement of the fired workers, recognition of the union, and a collective bargaining agreement.

With much difficulty, finally the union was legalized, but the collective bargaining agreement was not finalized until there had been international and national denouncements. With this pressure, on March 19, 1999 the SITRAKIMIH union finally signed a collective bargaining agreement that increased salaries by 10%. This situation did not help much, because after Hurricane Mitch KIMI tried to pull out of the Continental industrial park and close its La Lima facility.

In May of 1999, KIMI signed a contract with another industrial park in Honduras, outside of La Lima, which meant that the collective bargaining agreement signed in La Lima was not valid in the new location.

Obstacles to compliance with this right

Legal obstacles:

- Workers in the official services, except the army and the police, can form unions, but they cannot bargain collectively.
- Labor law expressly establishes the need to have state recognition to form unions.
- The minimum number of workers needed to legally establish a union is 30. Workers at small companies therefore cannot unionize.

- Provisional and permanent union leaders must be of Honduran nationality; meaning that naturalized or foreign workers are not able to exercise this right.

Practical obstacles:

- The Labor Code says that a new union can get its legal status within 30 days, but in practice this is not true. The Ministry of Labor is slow and delays the paperwork due to lack of personnel or disinterest.
- The constant untimely sales of transnational companies leads to the disappearance of unions.
- Public officials, companies, and sometimes workers have even adopted an anti-union attitude.

Collective Bargaining

Legal framework

Constitution:

- The Constitution does not guarantee the right to collectively bargain.

Labor Code:

- Article 53: Indicates that one or several workers' organizations, or the representatives of workers from one or more companies or groups of transitorily associated workers, can represent workers in a contract or collective agreement.
- Article 790: In the case of a negotiation initiated by a union, an agreement will result in a collective bargaining agreement. In the case of non-unionized workers, an agreement will result in a "direct agreement".
- Article 794: The conciliation process is a stage that comes after the direct negotiations (*arreglo directo*). If an agreement is not reached through the direct negotiations, the organized or unionized workers should turn to conciliation.
- Article 60: The new collective bargaining agreement cannot lead to conditions that are less favorable for workers than the conditions established by the previous agreement.
- Articles 65-66 and 82-84: If the employer violates the collective bargaining agreement, the workers can use judicial actions to ask him to comply with the agreement. Administrative authorities can fine the employer, and the judicial authorities can charge him for the damages he has caused.
- Articles 617, 620 and 625: Workers may also request that the employer be pressured if he does not comply with an order to reinstate a worker.

ILO Conventions:

Ratified:

- Convention 98, on the right to unionize and bargain collectively, 1949. Ratified June 27, 1956.

Not ratified:

- Convention 154: The concept of collective bargaining includes all of the negotiations in which a workers' organization and an employer and/or his organizations participate, 1981.
- Convention 135: Workers' representatives include those persons recognized as such according to national law or practice, in other words, union representatives or elected representatives, 1971.

What happens in practice with collective bargaining?

According to Articles 53 and 54 of the Honduran Labor Code, as long as there are unionized workers the employer is obligated to negotiate a collective agreement or contract. In principle, only the union can represent workers, but Honduran law allows temporary coalitions of workers, that are not unions, to negotiate collective bargaining agreements.

We find that in labor law and in practice, there are limitations and restrictions that confirm the existence of flexibility in terms of collective bargaining.

Deregulation

While public employees have the right to unionize, they are prohibited from negotiating collective bargaining agreements, according to Article 534 of the Labor Code. This restriction prevents them from realizing one of the most important activities within freedom of association.

This situation, besides being discriminatory, also violates Article 1.1 of ILO Convention 98, which establishes that workers should enjoy adequate protection against any act of discrimination that undermines their right to freedom of association.

Legal flexibility

The Honduran Labor Code determines the thematic content that collective bargaining agreements must include, and indicates what may not be regulated by these agreements (Articles 58, 78-). In other words, the law restricts the issues that collective bargaining agreements may address, and also restricts unions' autonomy.

The Honduran government also reserves the right to standardize and register the results of the collective negotiations before the Minister of Labor, meaning that there is rigid state control of the content of the negotiations.

Both situations violate the idea of collective autonomy, understood as unions' right to function freely in society, without the interference of employers or the government. They also violate ILO Convention 98.

Honduran law is the only national law in the region that has an exclusion clause, which allows some companies to permit, only unionized workers to enter the workplace. The collective bargaining agreement may also establish privileges for union members, although the application of the norm may not hurt non-unionized workers who worked in the company at the time the collective bargaining agreement was signed.

Flexibility in practice

We can observe flexibility in practice in the decreasing numbers of collective bargaining agreements that have been negotiated in recent years, and in the difficulties that Honduran unions face in trying to get companies to negotiate working conditions and abide by the agreements.

Obstacles to compliance with this right

- Union leaders do not adequately represent workers' interests.
- Collective bargaining agreements are more responsive to employers' interests than to workers' interests.
- There is no consultation process with the base membership before signing a collective bargaining agreement.
- The election of union leaders is not sufficiently democratic.
- The benefits pursued through collective bargaining are not well distributed.
- The government interferes with the collective bargaining process, especially in the public sector.
- The agreements that emerge out of the negotiation process, when they are not given the nature of collective bargaining agreements, may be called authentic conciliation agreements, collective agreements, or collective pacts.

Cases of incompliance

1. Confederacion de Trabajadores de Honduras (CTH)'s withdrawal from the Social Pact

Eight months after the Social Pact was signed between the union confederations, private companies, and the government, the CTH Congress formally withdrew in protest of not having achieved anything favorable for rural and urban workers.

2. SITRATERCO Secretary Generals' Assembly ends the "Together is better" program

In 1994, the Executive Committee of SITRATERCO (the union of workers at the Tela Railroad Company), led by Tomás Alvarez, betrayed the struggle against dismissals and farm closings, and the Tela Railroad Company was able to defeat the workers' strike. The company then started the "Together is better" program, through which the union leadership became a way for the transnational company to transmit its interests into the interior of the subsidiary unions.

Elimination of forced labor and obligatory overtime

Legal framework

Law of Rehabilitation of Delinquents: Decree No. 173-84 from October 14, 1984.

- Article 52: Prison labor can be obligatory for convicted prisoners and voluntary for the accused.

ILO Conventions:

- Convention 29: Details the definition of forced labor, and possible exceptions, 1930. Ratified February 21, 1957.
- Convention 105: Establishes that no one can be forced to do work or provide personal services without fair compensation and without their full consent, except in cases of public disaster and other situations described by the law, 1957. Ratified August 4, 1958.

What happens in practice with forced labor and overtime?

The issue of overtime work is particularly uncomfortable for business sectors. In all of Central America, companies pressure for more "flexibility" in this aspect of the labor law. They argue that production is not always the same, there are high seasons and low seasons, and the companies should therefore be able to adjust their employees' salaries to the needs of production.

In this sense, there is a regional trend towards making the number of allowable overtime hours, and the pay for these hours, more flexible.

Flexibility in practice

This type of flexibility has two forms:

1. The first is when the employer forces all workers to work extra hours, because of the volume of work to be done and the early deadline. It is common to see groups of young workers working 10-12 hours per day in the export processing zones' maquila factories, in order to finish the work assigned by the employer. On some occasions, the overtime hours are not paid; instead, workers are given an equal amount of compensatory rest time, which is not legal. In practice, if workers refuse to work overtime, they will be fired immediately, and thus they do not really have that option.
2. The other form of flexibility is when the workers request overtime hours, because the salary they earn does not cover the cost of the basic food basket, which costs three times their salary. Thus the precarious living conditions, high cost of living, and the currency's loss of purchasing power, make workers "voluntarily" submit to working more than 8 hours per day.

Obstacles to compliance with this right

Legal obstacles:

- Lack of specific and just sanctions for violating the law in terms of working hours and overtime pay.

Political obstacles:

- All of the "concessions" given to foreign investment, especially for maquilas, also include public institutions' tolerance for employers' violations and abuses of labor rights.
- The government tends to favor any type of investment in order to generate more employment, but is not concerned with the quality of this employment.

Practical obstacles:

- There is culture of tolerance of labor rights violations. The Ministry of Labor ignores labor rights violations and promotes acceptance of obligatory overtime.
- The economic crisis, high levels of unemployment, low salaries, high cost of living, and loss of purchasing power force workers to accept poor working conditions.

- “Labor flexibility” has been imposed in practice. Working hours have been modified, and are defined by employers’ needs and the ups and downs of supply and demand.

Elimination of child labor

Legal framework

Constitution:

- Articles 124, 128.7, and 171: Prohibits work for children who are still finishing the minimum education requirements.
- Article 24: Prohibits children from working in jobs that could affect their health or impede their physical or mental development.
- Article 128.7: The minimum working age is 16.

Labor Code:

- Article 129: Right to participate in professional training programs.
- Article 395: Prohibits participation in activities considered unhealthy and dangerous.
- Articles 128 and 44: The minimum age for working in unhealthy or dangerous jobs is 16, and 18 for underwater fishing or services abroad.
- Article 32: Minors may work a maximum of 6 hours per day and 30 hours per week. Children between the ages of 14 and 16 may work 4 hours per day and 20 hours per week.
- Article 129: Prohibits overtime work for children under age 16.

Regulation on child labor:

- Articles 38 and 47: Right to participate in professional training programs.
- Articles 122 and 123: Prohibit participation in activities considered unhealthy and dangerous.
- Article 20: CNA authorizes work for children over age 14, as long as they are also in school.

ILO Conventions:

Ratified:

- Convention 138, on the minimum working age, 1999.
Ratified June 9, 1980.
- Convention 182, on the worst forms of child labor, 1999.
Ratified October 25, 2001.

What happens in practice with child labor?

Honduras has one of the highest rates of child labor. The impacts of structural adjustment and neoliberal economic policies are reflected in family disintegration and

social and family survival strategies, which often involve send children into the streets in search of income.

The 2000 Human Development Report indicates that Honduras has a higher percentage of children in the workforce than the other Latin American countries. Almost 70% of the child Economically Active Population (EAP) is in agriculture and commerce (boys), and domestic service (girls).

Children whose needs are not met enter the workforce at an early age. Most work in the informal sector, but lately more and more children under age 18 have been applying for jobs in the formal sector, particularly in services, construction, and maquilas.

The labor relations that employers establish with child workers are informal, exploitative, and abusive of their rights. The contracts are verbal and unclear, so that the terms can easily be changed at the employer's will.

According to the Encuesta Permanente de Hogares de Propósitos Múltiples, in 1999 there were 139,330 children and 344,975 adolescents working or looking for work in Honduras. In the last decade, the child EAP grew by 12.5% and the youth EPA grew by 44.3%. The percentage of child workers who were girls also increased.

Furthermore, about 261,000 adolescents are also working. Of these, about 66% live in rural areas, and the rest are in urban areas (27,272 in Tegucigalpa, 19,890 in San Pedro Sula, and 48,981 in small and medium-sized cities).

In rural areas, 67% of child workers are in agriculture, 12% in manufacturing, and 11% in commerce. In the cities, most child laborers are in manufacturing, commerce, and services.

Working conditions in the primary sector:

Child workers are mostly found in the primary sector of the economy. They work long hours outdoors or in poor environments. They are exposed to high temperatures, toxic chemicals such as pesticides and insecticides, or smoke from the forests that Honduran farmers burn to prepare fields for planting. At the same time, these children have few opportunities to go to school, particularly during planting and harvest times.

Working conditions in the secondary sector:

In this sector, 0.2% of children work in mining. They work under dangerous conditions, without protection against toxic gases. Additionally, about 15% are working in manufacturing.

Working conditions in the tertiary sector:

In this sector, most child laborers work selling goods in the street, where they are exposed to traffic and crimes against their personal safety and psychological development. Other children are the victims of sexual exploitation.

According to the ILO's most recent study of Honduras, there are children involved with the worst forms of child labor, according to the definition of ILO Convention 182. These include:

- Slavery or similar practices, including some forms of domestic service.
- Commercial sexual exploitation of children.
- Using children in illicit activities, including drug trafficking and car theft.
- Jobs that hurt the health, safety, hygiene, or morality of children.
- Production of fireworks.
- Trash collection.
- Sale and use of agricultural chemicals.
- Work in entertainment centers, bars, or billiard parlors.
- Children working in sawmills or cutting wood with chainsaws.
- Mining.
- Agricultural work on different plantations.
- Diving apprentices.
- Beggars.
- Children exposed to vehicular traffic.

The children who work in domestic service have the lowest salaries, compared to other jobs in the public or private sector.

Domestic tasks done by girls in others' homes:

- Cleaning the house
- Cleaning the kitchen after every meal
- Washing the entire family's clothing
- Ironing the family's clothing, bed sheets, and curtains
- Cooking at least three times per day
- Carrying water
- Running errands
- Washing cars
- Cleaning the patio and garage
- Weeding the garden
- Taking care of the elderly
- Caring for children and taking them to school or bus stops

94.3% (19,575) of working girls between the ages of 10 and 17 were working as domestic servants, according to the Encuesta de Hogares de Propósitos Múltiples, in 1999.

Deregulation

Minimum age:

The Constitution establishes that the minimum working age is 16. However the Labor Code allows children to start working at age 14, if they continue to attend school.

Working hours:

Minors are only allowed to work up to 6 hours per day and 30 hours per week. Children between the ages of 14 and 16 may only work 4 hours per day and 20 hours per week. However, the Law on Child Labor in Honduras says that adolescents over age 16 can be authorized to work past 8 pm as long as it doesn't affect their ability to attend school, or harm their physical or moral health. Obviously, any child that works until 8 pm is not going to attend school regularly.

Flexibility in practice

The deregulations mentioned previously open loopholes to allow the following kinds of situations to become almost "legal":

- In 1999, of all of the working children and adolescents (139,330 boys and girls, and 344,975 adolescents), 49% were working in agriculture, cattle, forestry, and fishing; 18% were working in manufacturing, mining, electricity, gas, water, and construction; and 32% were working in commerce, transportation, services, and financial establishments. The 2% percent of working children that are in the mining industry are exposed to highly dangerous conditions, without protection against toxic gases.
- 66% of working children and adolescents live in rural areas.
- 15.3% of working children and adolescents work as domestic servants. Of these, 38% are underage and 94.3% are girls.
- In 1999, children aged 12-14 earned 28.6% of the legal minimum wage, and 14-18 year olds earned 44% of the minimum wage. They had an average of 5.1 years of schooling.

Cases of incompliance

1. US-based solidarity groups organized a speaking tour for worker Wendy Diaz in 1996. She gave testimony on the practices of the Global Fashion factory before the US Senate's Labor Committee, and spoke about the hiring of children. At the same time, the US Minister of Labor was investigating the hiring of minors by transnational companies in the Caribbean and Asia.
2. In the most recent ILO report, many forms of child labor were identified in Honduras that are considered the worst forms of child labor. These include slavery, some forms of domestic service, sexual exploitation, drug trafficking, and car theft.

3. In maquilas and other sectors, there are multiple cases of children working in areas and jobs that are harmful for their health and morality. These cases, which have been denounced many times, violate the international conventions that Honduras has ratified.

Obstacles to compliance with this right

- Lack of jobs.
- Lack of vocational training opportunities.
- No access to formal education.
- Violence and child abuse force children to leave the home and enter the workforce, where conditions are exploitative.
- There is a culture of tolerance with regard to child labor.

Elimination of discrimination

Legal framework

Constitution:

- Article 127: *“Every person has the right to work.”*
- Article 128.11: Establishes equal pay for equal work, working hours, efficiency, and time.
- Women who are pregnant, and for three months after giving birth, can not be fired without just cause.

Labor Code:

- Articles 124 and 144: Equal pay for equal work.
- Articles 124, 144, and 145: Judicial procedures guarantee justified dismissals, but also immediate reinstatement if the dismissal was discriminatory.
- Article 96.6: Prohibits practices that restrict workers’ possibilities of getting jobs, such as the use of blacklists.
- Article 379: Workers can freely request to leave their jobs when they have terminal illnesses.
- Article 147: Prohibits hiring pregnant women for jobs that require exertion or night shifts that exceed 5 hours.

Law of equal opportunities for women:

- Articles 44, 46, and 49: Prohibits the use of pregnancy testing as a requirement for being hired. Also prohibits any discriminatory act in terms of pay, selection, promotion, training, and education.

Criminal Code:

- Article 147: Addresses criminal types of sexual harassment in situations of hierarchical superiority in the workplace.

- Article 54: Workers are not obligated to tell their employer if they are sick, as long as they are not at risk of infecting others.
- Articles 52 and 53: An employer can not lower a worker's pay due to illness, or refuse or limit their medical attention, or fire a worker for being HIV-positive.

Legislative decrees:

- No. 34-2000-09-22: Law of Equal Opportunities for Women. This law introduces a chapter on equality and opportunities in the workplace, and social security for women workers.
- No. 17-91 from March 5, 1991: Article 4 says that handicapped persons have the right to not be discriminated against in terms of salary, working hours, bonuses, vacations, etc.

ILO Conventions:

Ratified:

- Convention 14, on weekly rest (industry), 1921.
Ratified November 17, 1964.
- Convention 111, on discrimination (employment and occupation), 1958.
Ratified June 20, 1960.

What happens in practice with discrimination?

These are some of the facts that demonstrate the occurrence of gender-based discrimination:

- The female EAP, particularly in commerce and industry, has grown significantly, although women still often receive less pay than men for equal work.
- 39% of women over age 10 have no education beyond the third grade level.
- Women now have a literacy rate similar to men, and a slightly higher rate of matriculation in school. Women hold about one third of executive-level and management positions (31%) and represent half of all professional and technical workers.
- Job training opportunities are more limited for women than for men. Of the students in the Professional Training Institute (INFOP) in 1995, 59% were men and 41% were women. High-level technical certification programs are more accessible for men, and in order for women to have access they must be young, single, childless, available full-time, have financial means, and have finished elementary school. Women who do not fulfill these requirements, including those who are illiterate, over age 30, mothers, or who hold jobs, are only eligible for INFOP's lower-level and more traditional courses in subjects like cooking and sewing.
- A 2003 survey showed that no company in San Pedro Sula would be willing to employ people infected with HIV/AIDS.

Cases of noncompliance

1. In 2003, 19-year-old Lidda González, an employee of the Southeast Textiles SA factory in Choloma, traveled to the US with support from the National Labor Committee (NLC). She complained publicly about the fact that workers at that factory were verbally and physically mistreated, forced to work long hours, refused permission to use the bathroom, and forced to submit to pregnancy testing which led to their dismissal if the results were positive.
2. As a result of the complaint, the nonprofit NLC demanded, in the context of the public debate, that clothing manufacturers monitor conditions at supply factories. In the case of Global Fashion, they directed their demands at Wal-Mart, which then proceeded to stop buying clothing from Global Fashion. Meanwhile, Global Fashion sought contracts with other retailers, and fired all of the union leaders.

Although the union did manage to become legally registered, it was unable to negotiate a collective bargaining agreement. Global Fashion closed its doors at the end of 1996, and later restarted production in Choloma under a new name (Nueva Elím). This is a common strategy used by maquila owners in Central America.

3. There are widely documented examples of discrimination against women workers in the maquila factories.
 - Requiring women to take a pregnancy test to obtain or keep a job.
 - Refusal to give women workers time off before and after giving birth.
 - Firing women workers who become pregnant.
 - Verbal and physical mistreatment.
 - Delaying the process of affiliating workers to social security (health and accident insurance).
 - Unjust dismissals, before the test period is over.
 - Harassment to quit.
 - Refusing to give workers permission to take time off to attend to their children's emergencies.
 - Long work shifts with no rest.
 - Sexual harassment and abuse.
 - Discrimination against HIV/AIDS victims.

Many of the aforementioned examples are also found in other sectors of the economy. These violations are due to the lack of training for companies by the Secretary of Labor, which should be done by law to guarantee effective protection for workers' rights.

4. In San Pedro Sula, there have also been documented complaints of discrimination against persons infected with HIV/AIDS. This situation is most visible in the northern part of San Pedro Sula, where workers infected with this disease are refused employment, according to a report published by the Pan American Health

Organization (PAHO) on World AIDS Day. No company in this industrial region is willing to hire an HIV-positive person, even if they have job openings.

- If an HIV-positive person gets a job, they face discrimination from employers and coworkers. We must remember that HIV-positive persons have special protection through a law that guarantees their right to work. Honduras has the highest HIV/AIDS infection rate in Central America.
- Many of the AIDS cases (6,021) are in Cortés, on the Caribbean coast. An additional 4,344 are in San Pedro Sula.
- PAHO indicates that the number of people unemployed due to HIV infection is increasing. Most work as factory operators. Many are very poor; 33% earn the minimum wage or less.
- 84% of HIV-positive persons have 2-3 children, and 41% are single mothers.

Obstacles to compliance with this right

- The Ministry of Labor has not contributed to improvements in compliance with labor rights. Although there is a General Labor Inspectorate, it does not effectively monitor compliance with workers' rights, due to the high number of complaints filed, the insufficient number of inspectors, and, in some cases, corruption.
- In a subtle way, the government favors the interests of maquila companies, because some government officials own some of these companies.
- Public security forces often intervene to bring an end to labor conflicts, when the employers request their involvement. This leads to violence, detentions, and the circulation of blacklists, which list people who will not be hired by any other maquila company.
- In addition to gender-based discrimination, there is also racial discrimination.
- There are insufficient vocational training programs for all workers, but particularly for women.
- Many sectors of the population do not have access to formal education.

Final Reflections

We have been able to observe the profound deterioration in labor rights compliance in Honduras, within the general context of poverty and low levels of education and income. There is a clear tendency to eliminate the labor rights and guarantees that currently differentiate between the formal and informal sector.

The informal economy, which does not recognize a minimum wage, or provide social security or occupational safety protection to workers, is growing. The Ministry of Labor systematically fails to supervise, sanction, or report companies' violations of labor law. There is also an "informal agro industry", linked to the cultivation of sugar, melons, and shrimp, and the export of non-traditional agricultural products, which has conditions similar to those in the maquilas.

Pressure from international institutions like the International Monetary Fund and the World Bank has led to marked changes in the job market and State services. The visible consequence of neoliberal policies, which promote these changes, has been the proliferation of precarious work and job instability, and the deepening of social inequality and poverty. We can predict even further deregulation of labor rights, particularly in the context of “free trade”, which does not allow regulations (seen as “barriers” or obstacles) that affect business development.

The idea that labor and social rights are “barriers” or obstacles for businesses is being integrated into the work of public institutions, which traditionally were responsible for ensuring compliance with these regulations. As a result, in many cases the law provides protection for certain rights, but these laws are not applied in practice, because the public institutions are inefficient and do not fulfill their monitoring role, and companies are thus free to violate these regulations.

In conclusion, we can say that in Honduras:

- National laws regulating requirements to become a union leader and the necessary number of people required to form a union need to be reformed. The current laws limit the exercise of freedom of association.
- It is necessary to create a national compensation fund for cases of sudden factory closures. This fund should be created through a tax paid by companies, or a percentage of their sales.
- It is important to prohibit the hiring of child workers and gender or age-based discrimination, through clauses in the contracts of certain companies.
- The sudden stoppages in maquila companies do not allow workers to enjoy their legal right to job stability and other basic rights. These cases are often left in impunity.
- Sudden factory closures appear to be a strategy to avoid fulfilling economic obligations to workers, and also an anti-union strategy. When a company disappears, the union disappears as well.

The panorama we are presented with is that of “labor flexibility”, which on the surface sounds like a positive term but in reality causes the loss of workers’ rights. Flexibility in all of its manifestations (legal, jurisprudential, and in practice) is the labor strategy used by the proponents of “free trade”, in other words, by multinational companies and groups of international power. Its strategy is aimed towards a final objective: eliminating all of the laws, norms, and protections that impede “free trade between the parties”.

This involves the elimination (or flexibilization) of the labor law, because it is considered that in the “free market” the market should regulate labor relations, not Labor Codes or the government. This perspective is then integrated not only into the reality of the workplace, but also into the labor, commercial, and environmental laws, and into all aspects of social life.

This is the greatest danger for Honduras and the other Central American countries. If flexibility, in practice, has led to deterioration in the quality of work and the quality of life in our countries, what would happen if we lost the rights established in the law?

The flexibility formula imposed on the workers has been seen in our countries for centuries, and has provoked violence. Insisting on continuing in this same direction means refusing to learn from past mistakes.

The seed of poverty brings with it the culture of violence. It is crucial to start to promote change, and take firm positions against the institutionalization of injustice.

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