EXECUTIVE SUMMARY

Honduras has ratified all eight core ILO labour Conventions. In view of restrictions on the trade union rights of workers, and continuous problems with discrimination and child labour, determined measures are needed to comply with the commitments Honduras accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO Declaration on Fundamental Principles and Rights at Work.

Honduras has ratified the ILO core Conventions on the Right to Organise and Collective Bargaining and on Freedom of Association and Protection of the Right to Organise. Yet in both law and practice, there are restrictions on the freedom to form trade unions, on the right to strike and on the right to collective bargaining, both in the public and private sector. There is insufficient protection against anti-union discrimination.

Honduras has ratified both the core ILO Conventions on discrimination. However, in practice, women have less access to quality employment, receive lower wages, and are less protected. Many of them work in the Export Processing Zones engaged in significant production of exports, and face violations of labour rights including inequality in wages and opportunities, and various forms of harassment.

Honduras has ratified both ILO core Conventions on child labour, but child labour is prevalent and a serious problem. Children work especially in small family farms or family shops, as street vendors or in small scale services. Child labour also occurs in construction, on lobster boats and in export based agriculture, exposing them to dangerous and unhealthy conditions.

Honduras has ratified both ILO core Conventions on forced labour. Forced labour occurs in commercial sexual exploitation (national and international trafficking of women and girls), as well as in drugs trafficking (mainly boys). Forced labour also occurs in Export Processing Zones where workers are often forced to work extra hours.

A key part of Honduras’ foreign trade policy is export promotion through attracting foreign investment and the signing of different types of trade agreements. It has often attracted foreign investors by offering tax reductions and exemptions, by providing good infrastructure in export processing zones and by loosening enforcement of labour laws to increase its competitiveness and capacity to export. Although some improvements have been made in recent years, substantive changes are required regarding some parts of the Labour Code, accompanied by more effective enforcement of the Labour Code in order for Honduras to be in line with the ILO Core Conventions it has ratified.
INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN HONDURAS

Introduction

This report on the respect of internationally recognised core labour standards in Honduras is one of the series the ICFTU is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

The ICFTU's affiliate in Honduras is the Confederación de Trabajadores de Honduras (CTH). Around 14% of the workforce is unionised.

I. Freedom of Association and the Right to Collective Bargaining

In 1956, Honduras ratified both the Freedom of Association and Protection of the Right to Organise Convention (No. 87), and the Right to Organise and Collective Bargaining Convention (No. 98).

The law recognises the right to form and join trade unions, but imposes restrictions on that right. At least 30 workers are needed to form a trade union, and there cannot be more than one union in a given enterprise or institution. At least 90% of the union’s members must be Honduran nationals, and trade union officials must be Honduran. The Labour Code does not apply to agricultural and stockraising enterprises, which do not regularly employ more than ten workers. This does not conform to article 2 of the ILO Convention No. 87, which lays down the right for all workers to form free and independent unions.

Workers in both unionised and non-unionised companies are protected by the Labour Code, which gives them the right to seek redress from the Ministry of Labour. Indeed, there have been several cases when the Ministry of Labour has applied the law, pressuring employers to observe the Code. But although labour or civil courts can require employers to rehire employees fired for union activity, such rulings are uncommon. In practice therefore, workers are harassed and even fired for trade union activities, because the application of the law does not protect workers and their trade unions sufficiently against acts of anti-union discrimination and acts of interference by employers.

The right to collective bargaining is protected by law. In practice, however, collective bargaining processes often encounter resistance. The right of collective bargaining is not granted easily, even once a union is recognized. For example in 2001, the government blocked salary negotiations by the hospital workers’ union Sitramedhys. It failed to respond to initial demands presented in June, then in July militarised the hospital school. In September the Health Ministry promised the union that the government would make a counter proposal, to be presented by the
Finance Ministry. However, the Finance Ministry denied all knowledge of this. On September 14 the Council of Ministers issued a decree undermining the union’s demands and threatening its existence. It claimed that Sitramedhys and other unions had suspended all health services, putting lives at risk. Sitramedhys insisted that its members had continued to ensure that all major services were still provided.

The right to strike is recognised but limited. Federations and confederations may not call a strike. A two-thirds majority of the votes of the total union membership is required to call a strike. Civil servants may not strike. Six months notice or government permission must be given for strikes in public services that do not depend directly or indirectly on the state. The Ministry of Labour and Social Security has the power to end disputes in the petroleum production, refining, transport and distribution services. Compulsory arbitration can be imposed on collective disputes in non-essential public services, without the possibility of calling a strike for as long as the arbitration award is in force (two years).

In addition, there are many difficulties with application of the right to strike and of police repression. In early October 2000, the police brutally intervened during a strike that had been called by the Confederation of Honduran Workers (CTH). The CTH was protesting against the continuous rise in the cost of basic utilities such as water and electricity and demanding wage increases to compensate for the workers' steady loss of purchasing power since hurricane Mitch had struck. The police tried on several occasions to disperse the strikers who were demonstrating in key zones of the country, mainly the ports. There were dozens of injured among the strikers.

On August 14, 2002, the police harshly repressed a demonstration by coffee workers in Tegucigalpa. At least 14 people were injured, when the police used rubber bullets and tear gas to disperse the demonstrators.

There are approximately 20 export processing zones (EPZ's), each providing space for between 4 and 10 companies. In total, there are approximately 200 export oriented assembly manufacturing firms located inside and outside the EPZ's. Honduras has three special laws to attract foreign investors in EPZs: the Free Zones Law (ZOLI), the Law on Industrial Processing Zones (ZIP), and the Temporary Import Regime (RIT). Beneficiaries of the first two laws receive 100% exemption of import and export customs duties, state and municipal taxes, and free repatriation of capital equipment. Export Processing Zones are exempt from income taxes for twenty years, and municipal taxes for ten years.

In the EPZ's the same labour regulations apply as in the rest of private industry, but often are not applied. In the government-owned Puerto Cortes free trade zone, trade unions represent workers in some of the factories (6 of the 10 export assembly manufacturing firms there are unionised). But in the privately owned EPZs, known as industrial parks, factory owners resist efforts to organize their companies. It is reported that under the Callejas administration in the early 1990s, investors had been enticed into the zones by promises that the labour law would not be strictly applied and trade unions would not be tolerated. Since then, violations of trade union rights have increased and working conditions have deteriorated. Some unionised workers are blacklisted in the export processing zones even though the Labour Code explicitly prohibits this. Some foreign companies close or threaten to close operations when they are notified that workers seek union representation.
Some companies have set up “solidarismo”-style organisations as a compliant “alternative” to undermine or control trade unions, notably in the export processing zones. The solidarismo associations are supposedly aimed at providing credit and other services to workers and managers who are members of the associations. Such associations do not undertake strikes or implement adequate grievance procedures, as they are meant to displace genuine, independent trade unions, and are dominated by their employer.

In 1999, at Kimi in the Lima Continental Park EPZ, a collective agreement was cancelled and a wage change was imposed. The union went on strike and occupied the factory. The management was kept inside the factory until the police escorted them out in the afternoon. The company tried to have the union leaders arrested and charged with kidnapping. The union blockaded Continental Park in protest at the management’s refusal to respect the collective agreement. Riot police were then sent to the park gates to ensure that workers could go in to work. Workers at neighbouring factories refused to enter, in solidarity with the Kimi workers. They were tear-gassed and beaten and many had to go to hospital.

In July 1999, the workers of Kimi and Yoo Yang, another company in the Lima Continental Park EPZ, made a request to form a trade union (Sitraimash) to carry out collective bargaining for the entire zone. The Government turned down the request, three months after the deadline, stating that the registration procedures had not been followed and that the law prohibited the coexistence of two trade unions within the same company. However, there was no intention of creating two trade unions within the same company but rather to form an industry-based federation that would complement the existing trade union at the Kimi Company.

Just before the rejection, Yoo Yang had reached an agreement with Sitraimash on a collective agreement once the new industrial federation was recognised. The management later informed the trade union that it would not comply with the agreement until Sitraimash was officially registered. The workers responded by attempting to form a trade union within the company. Once again, registration ended up being delayed by deceitful means. Various trade union organisations suspect that the Yoo Yang Company had threatened and bribed trade union members because they resigned and disappeared on the very same day that the registration request was submitted to the Ministry of Labour. The workers eventually managed to obtain official recognition for their newly-formed trade union after submission of a second registration request and a 14-month wait.

After finally gaining recognition, the Yoo Yang Workers’ Union (Steyy) began salary negotiations in February 2001. By November, little progress had been made and the company failed to deliver a counter offer. It did not show up at a meeting, without giving any explanation for its absence. The incident was one in a long line of delaying tactics, including an earlier request by the company for a one-month extension to prepare its offer. Instead it used that time to intimidate union members by carrying out unfair dismissals or sending them to work in a warehouse with no air-conditioning, toilets or water.

A Gildan-owned factory in Honduras violated the right to organise in 2002. In November, ten days after filing for the registration of a union, 38 workers who signed the application letter were fired and escorted out of the industrial park by a security guard. According to the workers, none of them was given a written explanation. The remaining workers
reported on supervisors saying people were fired for signing up for the union, and of the Production Manager stating that organizing a union would not be permitted at the factory.

On the 9th of August 2002, Sitracor, the union at Corazón Apparel, applied for recognition. Four union members were immediately dismissed. Three were later reinstated in their posts, whilst the fourth agreed to accept severance pay. According to Honduran law, the Labour Ministry had until August 30 to notify the union if there was anything incorrect in, or missing from, its application. Although that deadline had already elapsed, labour inspectors turned up at the factory on September 1 and 2 to ask for a full list of Sitracor members, which is not a requirement for union recognition. They stated that the Ministry had received a second application for registration and needed to decide which one to endorse. According to the ITGLWF, the second application had been made by a ‘yellow union’ close to management and there were doubts as to its legitimacy. In addition, a Ministry’s representative held meetings with representatives from the company and with the president of the ‘yellow union’ at the company offices.

There has been some recent improvements in the export processing zones. After a two-and-a-half year struggle by the work force, the first collective agreement in the Yoo Yang plant in La Lima was signed in 2002. This agreement was an important step forward in conflict resolution methods within the country’s textile industry. Indeed, it was by introducing the principle of negotiation that the workers and employers were able to agree on a certain number of points. Amongst the gains reported by the staff are a new procedure for resolution of conflicts, the extension of the medical services provided by the firm’s clinic, an increase in the maternity leave allowance, coverage of transport and food costs where overtime is worked, payment of the education costs of employees’ children and the establishment of a health and safety committee.

In 2002, the Government also opened a maquiladora office to facilitate access to Ministry of Labour services, and an office for female workers.

However, trade unions charge that the Ministry of Labour has not made sufficient progress toward enforcing the Code, especially in training its labour inspectors and in conducting inspections in the maquiladora industry. Complaints procedures are slow and often fail to result in any action by the Ministry of Labour.

**Conclusions**

*Freedom of association is recognised by law, however there are some legal restrictions and in practice the right to organise is not respected in many cases. The right to collective bargaining is protected by law, but in practice there exists a lot of opposition to collective bargaining processes. The right to strike is also recognised but various limitations exist and some strikes encounter police violence. The same labour laws apply to EPZs as to the rest of the economy, but resistance to unions is stronger in EPZs.*
II Discrimination and Equal Remuneration

Honduras ratified Convention No.100 on Equal Remuneration in 1956, and Convention No.111 on Discrimination (Employment and Occupation) in 1960.

By law, there is no discrimination between men and women. In practice there is a disparity in wage levels between men and women. In 1998, the national per capita income for women was 47.3% of men’s national per capita income. In the public service, this is due to the existence of vertical segregation, based on the fact that men in the public sector occupy more senior and higher paid jobs.

Women represent around 34 percent of the labour force in Honduras. In the period from 1995-1999 the number of women in employment rose by 6 percent. 90 percent of economically active women are employed in commerce and catering, community, social and personal services and manufacturing, whereas only 34 percent of male workers are to be found in the above mentioned sectors.

In the export processing zones, 70 percent of all workers are women (2000), most of them between the ages of 18 and 25. Only ten percent of the women hold administrative posts as supervisors, human resource managers or assistants. Women are assigned to the lowest professional levels and receive remuneration that is lower than that of men. As a result, many women workers in these zones only perform repetitive and semi-skilled work and receive a minimum of training.

Production quotas are often set extremely high in garment factories. If quotas are not reached no bonus pay will be received. If they are reached, quotas are often raised. There have been numerous reports by women workers of sexual, physical and verbal abuse, of severely limited access to medical services, forced and unpaid overtime, wage inequalities and no freedom to organise unions. Most women working in maquiladoras are subject to tight and direct control of their fertility. They are obliged to take illegal pre-employment pregnancy tests. Many are obligated to take birth control at the factory, and if they do become pregnant are faced with the choice between keeping their baby or keeping their job. In some extreme cases, as informants have recounted, abortions are performed in clinics inside the factories.

A study on the Choloma Free Trade Zone provides some figures on wages, working hours, and overtime work. The Choloma free trade zone was established because of its proximity to ports and its high population concentration. Workers reported in 2000 that wages were insufficient to provide basic necessities for themselves and their families. The legal working week is 44 hours for six days, but requirements of 11 working hours a day, with limited breaks are common. 78 percent of the workers reported extra working hours, 61 percent indicating that the extra hours worked were obligatory. 21 percent of the workers were not sure if extra payment for these overtime hours had been received.

A 1998 study lists some facts about working conditions in Wal-Mart garment (clothing) production and its suppliers in Honduras. The main findings were the existence of forced overtime, low wages, humiliation of employees, denial of sick days and health care, and no right to freedom of association.
A report on Honduras by the UN Committee on Economic, Social and Cultural rights (CESCR, April 2001), stated that some women only receive half of the salary as men for the same amount of work. In addition, women are subject to violence and abuse at the workplace. It also stated that the “maquiladora” system of employment was intended to exploit women through discriminatory salaries.

A Decree was promulgated in April 2000, approving the Equal Opportunities for Women Act, in respect of equality of opportunity in work and social security. The following protection is afforded: pregnancy testing may not be set as a prerequisite for employment; employment offers may not specify requirements based on sex, age, religion or marital status; effective protection of women during pregnancy is promoted; women workers infected by HIV/AIDS are protected; equal participation by women at all levels of public administration is promoted; and penalties are established for the discriminatory acts in question. However it is too early to assess what effect will be given to the new Decree.

Conclusions

Although by law there is no discrimination between men and women, in practice women are concentrated in certain jobs, in the public and private sector as well as in export processing zones. They receive less payment and have less access to training. In EPZs, 70 percent of the workers are women. They receive low wages, are subject to harassment and intimidation, and face violations of the labour law with regard to the right to form a union, obligatory pregnancy tests or obligatory overwork.

III. Child Labour


Honduras is currently reviewing its legislative framework in the light of its ratification in May 2001 of Convention 182. The employment of minors under the age of 16 is prohibited, except that a child who is 15 years of age is permitted to work with the permission of parents and the Ministry of Labour. The New Children’s Code prohibits a child of 14 years of age or less from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally.

However, the Ministry of Labour does not enforce effectively child labour laws. Violations of the Code occur frequently in rural areas and in small companies. Significant child labour problems exist in family farming, agricultural export (including the melon and coffee industries, where children are exposed to pesticides and long hours), small scale services, street vendors, small workshops, construction and commerce.

A household survey reported that 9.2 percent of children between ages 5 and 15 were working, and that 26 percent of children ages 11 through 15 work. Boys between the ages of 13 and 18 often work on lobster boats, where they dive illegally with little safety or health protection.
According to a report from UNICEF, there remain at least 778,714 Honduran children under 18 working to help their families, who are oppressed by poverty. In order to work, according to UNICEF, these children desert school or, in many cases, never enrol. In rural areas, most boys start working at age 5 on farms, while their sisters do so in household chores.

Within the 10-14 age group the percentage of children that works is 8.2 percent (1998), of which 2.7 percent are girls and 13.5 percent boys. Around two-third of them work in family employment and one-third in wage employment. They work between 30 and 40 hours a week.

Around 45 percent of the children work in agriculture, 20 percent in manufacturing, 15 percent in the commercial sector and 11 percent in the service sector. Around 5.5 percent of child labourers are domestic servants.

Although education is free and compulsory for children between the age of seven and 12, between 69 and 75 percent of the children working in construction, agriculture and the services sector do not attend school. Furthermore, rapid population growth and limited school budgets have meant that the school day in Honduras has been cut to half a day. This leaves the other half free for children to work, which some see as a contributory factor in the increase in child labour. Exams are conducted during the main harvesting time which means that many children drop out of school without taking their end of the year exams.

A 1995 survey shows that children as young as 6 work on coffee plantations in the planting and harvesting seasons. During the planting season, which lasts from June-August, children comprise approximately 20 percent of the labour force; in the harvesting season, which runs from November through February, children comprise 30-40 percent of the work force. Approximately 80-90 percent of the children work with their parents.

There are thousands of street children in Tegucigalpa and San Pedro Sula. About 40 percent of them are regularly engaged in prostitution and approximately 30 percent of street children are HIV positive. Both the police and members of the general public are engaged in violence against street children.

There are reports of employment of children under the legal working age in the maquiladora sector. A 1993 survey estimated the number of children working in maquiladoras as a percentage of the total workforce 2 percent, and 11 percent for the age group 14 - 15. The maquiladoras have since raised their minimum employment age, and some hire only at age 18 – though there is no information on whether such regulations are enforced.

Since 1997, Honduras has, however, participated in the IPEC programme of the ILO to tackle the problem of child labour.

Conclusions

Children under the age of 16 are not allowed to work, however, in practice child labour is common. Child labour occurs mainly in small family farms, small workshops, street vending, construction and services as well as in agricultural exports (coffee and melons). Child labour in export processing zones is less common but takes place.
IV. Forced Labour

Honduras has ratified both Conventions on Forced Labour. Convention No.29, the Forced Labour Convention was ratified in 1957, and Convention No.105, Abolition of Forced Labour Convention in 1958.

The Constitution prohibits forced or compulsory labour. However, there are credible allegations of compulsory overtime at maquiladora plants, particularly for women, who make up an estimated 70 percent of the work force in the maquiladora sector. Often the factory doors are locked and workers are forced to work extra hours to achieve their employer’s production targets, without payment of overtime wages, to produce items such as clothing for sale in Wal-Mart department stores.

In addition there exists forced prostitution of women. The Legal Code includes provisions that prohibit trafficking in persons, including children. However, women and children are trafficked for sexual exploitation and debt bondage. There are reports of Honduran women who are forced into commercial sexual exploitation in Mexico and Guatemala. Honduras is primarily a source country for trafficked children to neighbouring countries. According to Casa Alianza (a non-profit organisation for the rehabilitation of street children), Honduran children, especially young girls, are trafficked by criminal groups to other Central American countries for purposes of sexual exploitation. Boys reportedly are trafficked to Canada for the purpose of drug trafficking. There are reports that trafficking in children also occurs within the country’s borders, and there have been reports in the past that girls have been trafficked to Guatemala and Mexico for purposes of prostitution. Reports from Casa Alianza in 2000 asserted that approximately 250 Honduran children in Canada were coerced into prostitution or the sale of illicit narcotics.

Conclusions

Forced labour is prohibited by law, but does exist in Honduras. Examples are forced prostitution by women and girls, trafficking of children and women for prostitution and drugs selling, and forced labour in EPZs where workers are often forced to work extra hours.
**Final Conclusions and Recommendations**

1. Various provisions in the law restrict freedom of association, including the prohibition of more than one trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, and the requirement that trade union organizations must include more than 90 percent Honduran membership. Reform of the law is needed to bring the Labour Code in line with Convention 87.

2. Legal restrictions exist with regard to the right to strike. Federations and confederations are prohibited from calling strikes, and a two-thirds majority of the votes of the total membership of a trade union organization is required to call a strike. The Ministry of Labour has the power to end disputes in petroleum production, refining transport and distribution services. And there is the need for authorization or a six month notice period for any work suspension in public services that do not depend on the State. These restrictions should be revised to bring the law in line with Convention 87.

3. There is a need for legislation to provide for adequate protection, with sufficiently effective and dissuasive penalties, against acts of anti-union discrimination for trade union membership or activities and against acts of interference by employers or their organisations in trade union affairs.

4. Stronger enforcement of labour legislation is required in Export Processing Zones (Maquiladoras), especially with regard to the right to organise, the right to strike, the right to collective bargaining, inequalities in wages and opportunities between men and women, and harsh working conditions for women. There is a need for better statistical data on the distribution by sex of jobs in export processing enterprises, and on wage differences between men and women.

5. Wage inequalities exist between men and women. Legislation on equal remuneration alone will not be enough to improve the position of women. Active measures will be required to eliminate direct wage discrimination and to improve access of women to education and training. In addition there is a need for statistical information with an indication on the salaries, as well as statistical information on the distribution of men and women in the various positions and various jobs.

6. More progress has to be made with the effective elimination of child labour. Increased control on child labour is needed, especially in the informal sector and agriculture sector. Harmful and unhealthy circumstances in construction, agriculture exports and lobster diving need to be eliminated. Education has to be promoted and more resources have to be allocated to education. Honduras should maintain and develop more comprehensively its participation in the ILO’s IPEC programme.

7. There is an overall need for increased labour inspection to ensure the application of the Labour Code as well as a need for training of labour inspectors.

8. There is a need for the effective elimination of forced prostitution and trafficking of women and children.
9. In line with the commitments accepted by Honduras at the Singapore, Geneva and Doha WTO Ministerial Conference and its obligations as a member of the ILO, the Government of Honduras should therefore provide regular reports to the WTO and the ILO on its legislative changes and implementation of all the core labour standards.

10. The WTO should draw to the attention of the authorities of Honduras the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. The WTO should request the ILO to intensify its work with the Government of Honduras in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

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