



Responsible Labor in Salvadoran Public Policy

Designing a Public Policy Framework that Promotes Responsible Labor

Prepared by Kimberly Ascoli under the supervision of Dr. Richard Feinberg, Professor of International Political Economy, University of California, San Diego
April 2010

About BSR

A leader in corporate responsibility since 1992, BSR works with its global network of more than 250 member companies to develop sustainable business strategies and solutions through consulting, research, and cross-sector collaboration. With six offices in Asia, Europe, and North America, BSR uses its expertise in the environment, human rights, economic development, and governance and accountability to guide global companies toward creating a just and sustainable world. Visit www.bsr.org for more information.

Responsible labor is best envisioned as a component of a broader CSR agenda that includes environmental sustainability and community investment. Specifically, responsible labor suggests long-term investment in human capital and wages that rise fairly in tandem with rising productivity.

Executive Summary

This project aims to assist El Salvador in designing a public policy framework that encourages responsible labor practices in a manner that benefits workers and improves the country's overall competitiveness. The project is based on the concept that corporate social responsibility (CSR) and responsible labor advance the broad national interest and should be promoted jointly by the government, private sector, and civil society. Specifically, the project produced a report with recommendations to help the government develop a wide spectrum of policies that encourage the private sector to adopt responsible labor practices.

The project team, led by BSR, implemented a consultative and research-based strategy. In the first phase BSR completed an international benchmarking study to understand how other governments interact with the private sector to advance responsible labor. Subsequently, the team engaged in a wide-ranging national dialogue with stakeholders from the public, private, and civil sectors that yielded an understanding of existing laws and possible incentive instruments. Based on the findings, BSR prepared a report with specific recommendations that, if implemented, can advance a policy framework that encourages responsible labor practices in the private sector of El Salvador. The final report was publicly launched in December 2009.

In the short-term, the project has increased awareness in the public, private, and civil sectors of the "business case" of responsible labor. If the recommendations are widely debated and implemented, BSR expects that in the long-term the project will lead to:

- » Increased awareness of the business case for responsible labor
- » Improved cooperation between government agencies
- » Growth of successful public-private partnerships
- » Augmented foreign direct investment and exports that create good jobs

Opportunity

El Salvador is committed to enforcing internationally-recognized labor standards, both through its own laws and policies, and through the DR-CAFTA free trade agreement, which the country ratified in 2004. Additionally, in 2005 the country, represented by its Ministries of Labor and Economy, participated in the Inter-American Development Bank's report on labor issues in the region¹ (known as the "White Paper") and the International Labour Organization's (ILO) follow-up verification project. By participating in and endorsing these projects, the country agreed to advance high-quality labor standards.

¹ *The Labor Dimension in Central America and the Dominican Republic: Building on Progress: Strengthening Compliance and Enhancing Capacity*. The Inter-American Development Bank, 2005.

By signing the DR-CAFTA agreement, El Salvador committed itself to “effectively enforce its labor laws, and to strive to ensure that its laws provide for labor standards consistent with the internationally recognized labor rights.”
—DR-CAFTA, Chapter 16

“We are the leading civil service institution in terms of Labor and Social Security, entrusted with fostering labor relations based on dialogue, on social agreement and on tripartite involvement. Our main objectives are to improve real wages and the labor and living conditions of both male and female workers, as well as to improve production and productivity in a framework of social justice and equity.”
—Ministry of Labor, “Mision, Vision and Main Policies,” July 2009

On the domestic front, El Salvador is currently undergoing a political transition. After two decades of rule by a political party closely aligned with the private sector, in June 2009 a new government took office that views the middle and working classes as its core constituencies. This historic moment poses opportunities for a new government committed to improving working conditions to consider new initiatives. On the other hand, the new government and the nation’s private sector also must seek common ground that advances both public and private goals—without which neither sector can achieve its fundamental interests.

Having a policy framework that promotes CSR and responsible labor practices contributes significantly to a country’s overall competitiveness. This issue is especially relevant for El Salvador, whose economy is driven by an abundant labor force.² Above and beyond national labor laws, CSR and responsible labor practices can advance labor productivity and improve competitiveness in national, regional, and global markets.

In response to El Salvador’s unique circumstances and the international justification for responsible labor practices, BSR designed a project that recommends how the country could implement a public policy framework that advances CSR and responsible labor to enhance its long-term competitiveness.

Strategy

BSR firmly believes that CSR and responsible labor are not concerns purely of the private sector, but rather are increasingly pertinent and relevant to the public sector. Furthermore, a country’s public policy can be instrumental for the promotion of both CSR and responsible labor. Therefore, public policy should take a holistic, strategic, and “whole of government” approach.

In a comprehensive government approach, the task of advancing responsible labor should be a collaborative effort of the Ministry of Labor with various other government agencies. Likewise, the private sector and civil society should also assume responsibility for advancing responsible labor practices, and should seek synergy with the work of the Ministry of Labor.

Another fundamental task for the BSR project team was to make “the business case” for responsible labor. For a public policy framework to lead to a culture of compliance, private firms must be persuaded that responsible labor practices are in their self-interest. By offering incentives for responsible labor practices, the public sector can align itself with the self-interests of the private sector, namely to increase productivity and competitiveness. In some instances, this mutuality of interests is self-evident. However, some responsible labor practices may require investments that, in the short run, are costly to the firm. In such cases, it is appropriate for the public sector, acting on behalf of the common welfare, to establish a framework of balanced incentives, to advance responsible labor practices.

² *Building a Framework for Corporate Social Responsibility as a Development Tool: El Salvador.* Foreign Investment Advisory Service, 2006.

A Model in Singapore

The Workplace Safety and Health Council, made up of government, business, and worker representatives, as well as professional experts, is a successful public-private partnership that advances responsible labor in Singapore. The council seeks to advance worker health and safety in key economic sectors and reduce the national worker fatality rate, thereby rebranding Singapore one of the world's safest, most efficient business locations. Specifically, it sets safety and health standards, helps build capacity in participating firms and publicly recognizes industry leaders.

Implementation

Specifically, the project produced a report to help El Salvador create a public policy framework centered on incentives that encourage responsible labor practices in the private sector. To generate compelling suggestions, BSR followed these steps:

- 1 Researched international good practices of public policies that promote CSR and responsible labor.** BSR completed a benchmarking study to understand how other governments are engaging with the private sector to advance responsible labor. The study uncovered many interesting examples of public policies and programs. One example, found in Singapore is the Workplace Safety and Health Council, which advances worker safety and comprises representatives from the government, private sector, and worker movements.
- 2 Researched El Salvador's existing laws and incentives.** The BSR team reviewed the country's laws and spoke with national experts to understand what existing laws in El Salvador deal with CSR and labor issues. Also, the team examined existing incentives—or those that might be embedded in regulations—to encourage compliance with labor laws.
- 3 Consulted key stakeholders to understand what policies are working.** The project team conducted interviews with more than 70 domestic stakeholders, including government agencies, private sector enterprises, and civil society organizations, including labor union representatives, to comprehend what policies have been successful and what new approaches might be taken. The team found that in recent years the Salvadoran Congress has inserted labor clauses in a number of laws, one of which is the law regulating government procurement.
- 4 Prepared a report and made revisions based on stakeholder feedback.** Based on field research and the stakeholder dialogues, BSR completed an analysis of Salvadoran public policy instruments currently being used and highlighted opportunities for creating incentives for the private sector. The team incorporated stakeholder feedback into the final version.
- 5 Publicly presented report.** To stimulate public debate on its conceptual framework and policy recommendations, BSR launched the final report in December 2009, with high-profile presentations to leaders from the public and private sectors.

REPORT RECOMMENDATIONS

Based on the project team's extensive consultations, the report makes the following recommendations to the Salvadoran government and society, which should be implemented gradually (suggestions 1–5 should be the top priority):

- 1 Adopt a “whole of government” approach to advancing responsible labor.** The Ministry of Labor could lead an inter-agency action committee to design and drive a government-wide strategy.
- 2 Strengthen existing forums and open new spaces for meaningful dialogues among key stakeholders.** Conflicts over labor standards are part of a much larger pattern of extreme social strife that El Salvador must overcome. Communication spaces should be strengthened and broadened.
- 3 Build a partnership for labor standards enforcement between the Ministry of Labor and global brands operating in El Salvador.** It is time to bring the parallel auditing systems currently being operated separately by the public and private sectors to the same table. The ministry should invite brands to share methodologies and best practices, and to explore efficient modes of collaboration in advancing responsible labor practices.

LACAP: Importance of Laws
Decreed in 2000, The Public Administration Law for Procurement and Contracts (LACAP) is the Salvadoran law that regulates the procurement programs of public sector institutions, including autonomous agencies and the Salvadorian Social Security Institute. LACAP requires bidders on government contracts to show evidence that they are current with payments to social security and employee pensions. Without doubt, LACAP has focused more attention on responsible labor and has set an important precedent for broadening public sector procurement powers to consider contractors' other responsible labor practices.

- 4 **Focus on top goals, such as eliminating the worst forms of child labor and advancing gender equity.** Clear, attainable goals build credibility and enthusiasm. Allegations of child labor can threaten a region's reputation and relationships with international buyers.
- 5 **Coordinate better among international donors and projects advancing responsible labor.** International donors support an impressive number of projects in El Salvador advancing labor practices. Avenues for sharing information, experiences, and strategies among projects should be reactivated.
- 6 **Establish a national system for monitoring and reporting measures of labor productivity and international competitiveness.** Reliable metrics are an important piece of making a persuasive business case for high labor standards. The responsible entity could be a public-private partnership.
- 7 **Foster public-private partnerships that strengthen responsible labor and CSR.** Partnerships give concreteness to and open spaces for stakeholder dialogues. Partnerships can be forged on a sector or industry basis.
- 8 **Enable a market for auditors.** Sharing an objective of compliance with labor standards, the government inspection teams, jointly with global brands, could create synergies to fulfill future inspection needs and could fill any gaps with independent auditors.

Results

SHORT-TERM RESULTS

In the short term, the project activities and final report have helped to increase awareness in the public, private, and civil sectors of the link between responsible labor and national competitiveness. Jorge Hasbun of the Salvadoran Chamber of Commerce explained that "not everyone sees the connection between responsible labor practices and productivity, but this project has put the topic on the table." Mario Roger Hernandez, the Vice-Minister of the Economy, concurred, saying that "CSR is still thought of as philanthropy and not linked to competitiveness, but slowly the message is being disseminated."

The project and the report's public launch spread the message that advancing the CSR and responsible labor agenda is the joint responsibility of the government, private sector, and workers' unions. To gain traction, must be all leading sectors must share a sustainable long-term vision. Further, the launch ignited a national debate around specific policy proposals to advance responsible labor and national competitiveness.

Lastly, the project produced an extensive inventory of laws and regulations that can be used to advance responsible labor. This list can be found in the final report.

ANTICIPATED LONG-TERM OUTCOMES

The long-term impact of this project depends on the degree to which the report's conceptual framework and policy recommendations to the Salvadoran government and society are debated and implemented. Several of the anticipated outcomes include:

- 1 **Increased awareness of the business case for responsible labor.** BSR expects that over time El Salvador's private sector will see the concrete benefits responsible labor practices have on their businesses, specifically increases in worker productivity and overall competitiveness.

- 2 **Improved coordination among government agencies.** A policy framework that promotes CSR will also foment cooperation and unity within government agencies, particularly between the Ministries of Labor and Economy.
- 3 **Growth of successful public-private partnerships (PPPs).** El Salvador can increase the collaboration between sectors by focusing on a common objective, such as responsible labor. As other successful PPPs show, each stakeholder must clearly see the individual benefits. In this case, the private sector will see the long-term business benefits of responsible labor practices, the public sector will improve law enforcement, and the worker movement will see better working conditions.
- 4 **Augmented foreign direct investment and exports.** By enhancing its reputation as a responsible country, El Salvador will become an attractive investment location for responsible supply chains, particularly in industries sensitive to labor issues such as the apparel and agricultural sectors. Further, by improving labor conditions the country can avoid DR-CAFTA sanctions.

LESSONS LEARNED AND USEFUL TIPS

During this project's implementation BSR has made several observations that can be useful to other countries seeking to replicate this strategy, including:

- 1 **A whole of government approach to labor standards enforcement** vastly widens the scope of instruments and incentives that can be deployed to advance responsible labor practices.
- 2 **Engaging in cross-sector stakeholder dialogue** increases awareness of shared interests and encourages each sector to assume partial responsibility for advancing the responsible labor agenda.
- 3 **Offering successful case studies from other countries** is extremely useful to demonstrate, via concrete examples, the feasibility of policy suggestions.
- 4 **Recommendations** should be presented as short- and long-term suggestions, making them more realistic and attainable.

About DR-CAFTA Responsible Competitiveness Project

This case was made possible by a grant from the U.S. Department of State to BSR for its "DR-CAFTA Responsible Competitiveness Project." The project works with producers, labor, government, and international buyers to promote responsible labor practices in countries of the Dominican Republic-Central America-United States Free Trade Agreement (DR-CAFTA). For more information, visit www.drcafta.bsr.org.