

Honduras:

Alternative Report

Submitted to the

CEDAW Committee

by:

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I. Introduction

Honduras is located in the center of Central America. According to the last population and housing census of the *Instituto Nacional de Estadística* (INE) (National Institute of Statistics), in 2013 the total population of Honduras was 8.6 million, of which 51% are women and 49% are men. Unlike a decade ago, the greatest concentration of the population is now in urban areas, such as in the departments of Cortes (1,621,762), and Francisco Morazan (1,553,379),¹ where the majority of maquiladora companies are present.

Honduras has ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and several ILO Conventions, including Convention No. 100 (equal remuneration), 111 (discrimination in employment and occupation), and 102 (Social Security: Part 8 Maternity Allowances but not for the benefit of the family). According to Art.16 of the Constitution, international law applies automatically after ratification.

At the national level, Honduras is a civil law country and legislation is considered the primary source of law². Article 60 of the Constitution of Honduras³ recognizes gender equality and provides, “there is not privilege class, all the Honduran are equal under the law, is not allow discrimination by sex, race, class or anything against human dignity”. Great importance is given to the family, motherhood and children. The chapter on social rights establishes that subjects are under the protection of the State (Art. 111). It also establishes a direct link between the right of a child to healthy development and the need for maternity protection (Art. 123). It guarantees paid maternity leave, day-time rest while nursing, and prohibits the dismissal of pregnant or lactating women without just cause (Art. 128). In the informal sector, domestic workers are covered by social legislation (Art. 131).

The Constitution mandates the *Instituto Hondureño de Seguridad Social* (the Honduran Social Security Institute) to provide contributory social security, which provides maternity and family subsidies for all workers (Art. 142). Similarly, article 20 of the Reglamento de la Ley de Igualdad de Oportunidades para la Mujer provides, “The woman has the rights to the social security, to work and to the health.” In addition, the Reglamento general de la ley del seguro social ensures in article 10 (2) that those lacking mandatory protection can be benefit from the social security system through article 25 of the Reglamento General de la Ley del Seguro Social.⁴

ii. Focus Issues of this Alternative Report

This alternative report focuses on gender equality and non-discrimination in maquiladoras and agricultural sectors in Honduras, particularly in relation to CEDAW provisions on labor and work conditions.

Areas of concern include maternity leave, payment of maternity leave, breastfeeding, child care, pregnancy discrimination, preferential treatment of pregnant women, pregnancy tests, minimum wage, sexual harassment, paternity leave, motherhood as an issue that is unique to women or a social/collective matter, the participation of the State as a guarantor of family education and maternity benefits left out of the labor code.

¹ <http://www.ine.gob.hn/images/Productos%20ine/censo/Censo%202013/Presentacion%20Censo%202013.pdf>

² José Miguel Álvarez and Jessica Ramos, Guía para la Investigación Jurídica en Honduras, Globalex,

<http://www.nyulawglobal.org/globalex/honduras.htm# 4. Sources of Law>

³ http://trabajo.gob.hn/biblioteca-y-documentos/leyes/Constitucion_de_la_republica.pdf

⁴ Which states, “any worker that starts to work with and employer must enroll in the social security system from the first day of work. The Contributory portion is set out in the article 55-A of the Ley del Seguro Social, which provides: 1) Maternity and sick leave (ME) for employer 5%, for employee 2.5% and for the state 0.5%. 2) invalidity, old age and death (IVM) for employer 2%, for employee 1% and for the state 0.5% according with the according with the roof quote. See <http://www.ihss.hn/transparencia/estructura/Paginas/tasasyderechos.aspx>

iii. Methodology

This report is based on interviews that were conducted in the maquila sector located in the cities of Villanueva, San Pedro Sula, Choloma and their surroundings, interviews with workers from the rural farming sectors of La Lima and Choluteca, consultations with consortium members, and desktop research. In total, 75 interviews were conducted between April and July 2015.

iv. CEDAW past General Comments with respect to Honduras:

Honduras submitted its 4th, 5th and 6th periodic reports to the CEDAW Committee on 26 July 2007. Among its recommendations of 10 August 2007, the Committee urged Honduras to:

- (a) Give high priority to its law reform process and to modify or repeal, without delay and within a clear time frame, discriminatory provisions in the family Law and Labor Code (para 15).
- (b) To ensure that all forms of violence against women are criminalized; that women and girls who are victims of violence have immediate means of redress and protection; and that perpetrators are persecuted and punished (para 19).
- (c) Address the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society. Such stereotypes present a significant impediment to the implementation of the Convention and a root cause of the disadvantaged position of women in all areas, including in the labor market and in political and public life;
- (d) Expressed concern about the continuing discrimination against women in the labor market, where there is occupational segregation and a persistent wage gap between men and women. It is concerned about the concentration of women in the informal sector and in domestic work with no social security or other benefits provided under the Labor Code. The Committee is also concerned about the existence of child labor, in particular the exploitation and abuse of girls working in domestic service and the exploitation of the predominantly female workers in the maquiladoras.
- (e) Adopt policies and concrete measures to eliminate both horizontal and vertical occupational segregation, accelerate the eradication of pay discrimination against women and ensure de facto equal opportunities for women and men in the labor market. It also encouraged the state party to ensure that women in the informal sector and domestic work are not exploited and provided social security and other benefits. The Committee calls upon the state party to enact and effectively enforce laws against child labor and ensure that girls working in domestic service and other jobs in both formal and informal sector are not exploited or abused. The Committee recommends that the state party strengthen labor inspectorates to monitor compliance with the Code, especially in the maquiladoras and to ensure that penalties are imposed for violations. (para 29)
- (f) Ratify the Optional Protocol to CEDAW. (para 32)

V. Specific Articles of CEDAW

Two articles are most relevant in this case.

Article 2: States Parties (b) To adopt appropriate legislative and other means, including sanctions where appropriate, prohibiting all discrimination against women; e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

The Committee sees 2 (b) as the source for states obligation to ensure the availability of remedies for women subject to discrimination. In terms of general Recommendation 28, article 2 imposes a due diligence obligation on state parties to prevent discrimination by private actors. In some cases a private actors acts or commissions may be attributed to the state under international law.

Article 11: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment

1. Discrimination through Urine Testing

In the maquila industry, half of interviewed workers stated that employers had investigated their family lives and subject them to mandatory pregnancy tests before they were hired.⁵ Employers commonly give random urine tests 2 to 3 times a year, stating they are drug tests. However, since interviewees heard that other maquila employers take saliva samples to test for drug use, they believed their employers used urine tests as a covert way to determine whether workers were pregnant. This is in direct violation of CEDAW's provisions barring discrimination on the basis of pregnancy.

Recommendations:

In terms of General recommendation 28, states must immediately assess the de jure and de facto situation of women and take concrete steps to formulate and implement a policy that is clearly targeted towards eliminating discrimination against women and achieving substantive equality.

The Government of Honduras must exercise due diligence to ensure that women are not discriminated against by private entities, enforce existing laws through regular on-site inspections of worker-employer relations,⁶ ensure appropriate sanctions are in place. According to the Labor Code and Rules and Regulations of the LIOM, performing pregnancy and/or HIV tests, through urine tests and blood tests on workers that have already been hired, are discriminatory.⁷

2. Discrimination Based on Age

The CEDAW committee has recognized in its General Recommendation 28, that discrimination on the basis of sex or gender may be exacerbated by other factors such as race, ethnicity, class, age, etc., and that state parties must prohibit such intersecting forms of discrimination and their compounded negative impact on women. Violations frequently occur despite constitutional provisions⁸ guaranteeing the right to work, the right to job stability and non-discriminated based on age⁹. In fact, half of all interviewed workers made reference to age-based discrimination.

One interviewee explained that,

⁵ Status of violence against women in Honduras, Centro de Derechos de Mujeres, Red Nacional de Defensoras de Derechos Humanos de Honduras, Foro de Mujeres por la Vida, JASS-Honduras y Centro de Estudios de la Mujer; July 2014; available at www.cipamericas.org/archives/12582

⁶ Art. 591 of the Labor Code.

⁷ Art. 96 (9) of the Labor Code, 20 (21) of the Regulations on the Law of Equal Opportunities for Women.

⁸ Art. 25 of the Labor Code y Art. 129 and Art. 135 of the Honduran Constitution

⁹ Art. 20 (10 y 14) from the Rules and Regulations of the LIOM.

“all new employees are very young, 18 to 22 years old at the most, and we have seen that workers fired are usually 30 to 45 years old, workers with experience, that have high production levels, that have been working at the factory for many years and some with health problems, because they got sick from working at the factory for many years. When they fire them they say it is because they are not producing enough, but we know them, and we know that is not the case, they are workers that always have high production percentages, but are now a bit older in comparison with the new employees and have many ailments due to repetitive movements. The company doesn’t like when we get sick, when we ask to leave to go to the IHSS and much less when we get disability. We think that if they were really fired because of low production levels, they should have fired young workers with low production, but that isn’t the case, which is why we come to the conclusion that they are fired because of their age and because they have health problems, which come from working here.”

Recommendations:

The Government of Honduras must adequately supervise factories and ensure compliance with the law and to guarantee the rights of workers.

The Ministry of Labor, the General Labor Inspectorate and the Woman’s Institute,¹⁰ must inspect factories with the aim of reviewing the file of every current worker and all workers dismissed or who quit within the last 5 years, to verify that women are not discriminated against due to their age. Should proof of discrimination be found, they should be required immediately to comply with Article 76 of the Rules and Regulations of the LIOM.

3. Sexual Harassment

In General Recommendation 19, the Committee stressed that gender-specific violence is a form of discrimination under the Convention and that State parties are not only directly responsible for the acts of State organs but may also be responsible for private acts if they fail, with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation. In this scenario, not only must the state put appropriate law and policy measures in place, but it must also properly administer and give effect to them.

Most information about gender-based violence in Honduras focuses exclusively on domestic violence; very little work has been done to shed light on the prevalence of sexual harassment or remedies for it. In interviews in both the maquila and agricultural sectors, workers reported the existence of sexual harassment. In many circumstances victims were afraid to report the harassment, for fear of losing their jobs. In other circumstances where a union had complained on behalf of a victim, the manager/harasser was transferred, and in some cases fired.

Sexual harassment is a crime in Honduras under the Penal Code (1996), and addressed in the Equal Opportunity for Women Act (2000). The Penal Code, Art. 247-A, was amended in 1996; it defines and sanctions sexual harassment in the following way:

Whoever takes advantage of a superior hierarchal labor, administrative, teaching, or the similar position and causes the victim labor instability, disqualification in the achievement of their job or for labor promotion, or impedes access to a position of work, such as retaliation due to rejection of improper acts carried out through advances or requests of sexual favors for himself or a third party, that person who commits the crime of sexual harassment will be sanctioned with the sentence of imprisonment of 1 to 3 years or disqualification for the same period, provided that the advances or requests for sexual

¹⁰ Art. 591 of the Labor Code.

favors had been rejected before by the victim, who timely informed the hierarchal labor authority or union to which the victim is affiliated.¹¹

There are three main elements the victim must prove in a successful sexual harassment claim: 1) the harassment was perpetrated by a superior; 2) the harassment resulted in material harm to the victim; and 3) the harassment was non-consensual.¹² The result of this language seems to penalize the act of retaliation for refusing the advances of the superior, as opposed to the act of harassment itself.

The Honduran Equal Opportunity for Women Act was enacted in 2000 and was heralded as a major achievement for women's rights in Honduras.¹³ The goal of the law is to empower women across sectors of Honduran society and guarantee their equal treatment before the law. The law's provision on sexual harassment contains the following:

Sexual harassment by the employer or head of state or private company empowers the worker or public servant in his case, to terminate the working relationship without notice and without liability, retaining the right to statutory compensation benefits as in the case of unfair dismissal. When the harassment is committed by a worker, proceed to immediate dismissal without responsibility to the employer or state institution.¹⁴

This language applies to both public and private actors, and permits the victim to seek the same damages from the employer as they would have if they were wrongfully terminated. It also permits the employer to fire the harasser without facing liability for termination of the employment contract. It does not, however, define what constitutes sexual harassment.

Yet such laws are under-enforced by a dearth of labor inspectors who are concentrated in Tegucigalpa and San Pedro Sula regions. Many inspectors asked workers to provide transportation to conduct an inspection, as the *STSS* did not have sufficient resources to pay for travel to worksites, further impeding their ability to enforce labor laws effectively. There continued to be credible allegations of corruption among labor inspectors, particularly in the northern part of the country¹⁵. Interviewees in the maquila sector stated that their co-workers have been subjected to sexual harassment by a boss. They gave the following testimony, "we realized two months ago that the new production engineer has sexually harassed two coworkers, one of them is 24 years old and the other one 26 and both girls are very shy and they are scared, both girls have been touched up and have been offered promotions if they have sex with him, they still haven't made a complaint against the engineer, the last we knew, they were thinking about telling the president of the Union so that she would help them, but they are very afraid of losing their jobs, in our company it is the first time this type of sexual harassment occurs."

Another group of interviewees from the agricultural sector, stated that in the company where they work there have been cases of sexual harassment and that the most recent one was two years ago and their testimony was as follows, "the manager of the farm took a temporary worker into the bathroom and was touching her, when one of the members of the union realized and told the owner of the farm and asked that he be fired, the owner didn't want to fire the manager, but since the union members kept insisting the owner fired him."

¹¹ Honduras Penal Code, Article 247-A (unofficial translation).

¹² Case law could not be accessed to determine whether the threat of harm is enough to make out a case of sexual harassment under this provision.

¹³ Francesca Musiani, Honduras: Fighting Poverty, Violations in the Workplace, and Early Childbearing between Good Laws and Bad Implementation, University for Peace Human Rights Center, p. 6 (available at http://www.academia.edu/321542/Honduras_Fighting_Poverty_Violations_on_the_Workplace_and_Early_Childbearing_Between_Good_Laws_and_Bad_Implementation).

¹⁴ Honduran Equal Opportunity for Women Act, Art. 61 (unofficial translation).

¹⁵ Honduras 2012 Human Rights Report, Country Reports on Human Rights Practices, United States Department of State, Bureau of Democracy, Human Rights and Labor, pg. 24

A second group of workers, also from the agricultural sector stated, “In the farm where we work there was a case of sexual harassment seven years ago, the harasser was the foreman of the farm, he made inappropriate proposals to our co-worker and because she rejected him, the foreman got it against her, the foreman always complained about the work that she did, he always said that it was bad, that it didn’t work, that she had to do it again because it was bad, she complained and complained and our boss did nothing, in the end the only thing they did was transfer the foreman, he wasn’t fired and that was all the company did.”

The laws dealing with sexual harassment are not comprehensive and do not prohibit an employer, prospective employer, supervisor or co-worker from sexually harassing any woman employee or co-worker. They also do not place a duty on the employer to deter such harassment. Definitionally, they do not understand harassment to include physical sexual or psychological harm; do not take into account the fear of job loss, involved in reporting incidents of sexual harassment; and also does not envisage the hostile work environment type of harassment, which emanates from colleagues and not necessarily managers. In addition, proof of beyond reasonable doubt in criminal cases has been criticized as too high a threshold to meet in sexual harassment cases.

Recommendation

Since statistical information is imperative to understand the reality of sexual harassment on the ground, Honduras needs to provide national statistics, disaggregated by gender and sector, to fully understand the extent of the problem.

The Ministry of Labor, the General Labor Inspectorate and the Woman’s Institute, should exercise due diligence by monitoring and inspecting worker-employer relations¹⁶. They should set dates for work inspections of all the companies established in the country and ensure that they be conducted with the objective of interviewing randomly the majority of women working in said companies to verify and ensure that women aren’t being subjected to sexual harassment.

Should sexual harassment be found, whether it be by the employer or representatives of the employer and/ or workers, they should be required immediately to comply with Article 30 and 76 of the Rules and Regulations of the EOWA.

4. The right to equal remuneration

The right to equal pay for equal value takes account of the fact that lower wages for women are not only the result of direct discrimination but also of horizontal segregation of jobs and payment of lower wages in feminized workforces. This dynamic is evidenced by workers in factories, who are predominantly female and governed by a minimum wage that is lower than the minimum wage for other sectors, (always 20% lower) and is considered too low to meet the cost of living. This minimum wage, when coupled with the wage per hour of production and general work conditions, amounts to a violation of the principle of equal pay and equality of treatment. The CEDAW Committee has linked the existence of a segregated labor market and low pay for women with gender stereotypes, which perpetuates the attitude that women play a secondary role in the workforce and are available as cheap, part-time workers. For example, one worker described,

“we feel we are exploited too much, the goals are so high, what they are doing is exploitation, it is difficult to reach the goals, we rarely reach them, the amount we are paid per hour is always the same no matter what size we are making, we have had plus sizes of

¹⁶ Art. 591 (4 and 5) of the Labor Code.

6x and even 8x. Also there is a lot of psychological pressure, verbal abuse, they no longer ask for 100% as a minimum, now they require at least 110%, when we are sick we are the targets of discrimination, we are fired because we are no longer useful, the goals are so high that to try to reach them we don't take the 30 minutes of our lunch break, we only take 20 or 15, we don't take the 15 minute break either, we work that whole time to try and reach the goal, in some companies they pay bonuses for production or quality, but they are always saying that the team has to produce a minimum of 100% and that the daily AQL has to be below 2%, if these percentages aren't kept up daily during the entire shift, we lose both the production and quality bonus, because the company doesn't care about the effort we put into the work, another problem we face daily is that the machines are very old and they still set the same goals, which is why we consider the wage doesn't match the amount of sacrifice and effort we make, what we make weekly doesn't cover food and child care, the purchasing power in Honduras has gone up and neither the government nor the companies care about the workers."

Recommendations

The government of Honduras needs to take all necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The government should take specific measures to promote the use of objective job evaluation methods free from gender bias in the public and private sectors, with a view to ensuring the establishment of wages and salary scales in accordance with this principle.

To decrease the wage gap between feminized and non-feminized sectors, Honduras must establish a higher minimum base salary within the category of companies now found under the Free Zone Law, and ensure that workers in the category of companies found under ZOLI be moved to the Manufacturing Industry category, which has a higher minimum wage than the ZOLI category.

Employment conditions of employees in the maquila sector with highly repetitive movements must be adequately regulated to reduce the disproportionately high risk of early onset illness and disability among women workers.

5. Discrimination on the Basis of Maternity

Article 11 (2) : In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures: 11 (2) (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

5.1 Critical Laws

The maternity protections in Honduras are based on three main laws; (1) the Código de Trabajo of July 15, 1959 (LC, Labor Code)¹⁷, (2) the Law on Equal Opportunity for Women in the Workplace (EOWA) through Decree No. 34-2000 April 28, 2000, and the (3) the Social Security (IHSS) law of October 15, 1957 as amended up to Decree No. 80-2001.

While the Código de Trabajo makes exemptions and does not protect agricultural workers, the Law and the regulation on Equal Opportunity for Women in the Workplace (EOWA) applies broadly to all women regardless of the sector in which they work, and protects all the women from any discrimination. The Social Security (IHSS) law and regulation covers all workers, from their first day of

¹⁷ Amended by Decree No. 322,003, as of March 31, 2003

work.

In terms of the Labor Code, when a worker is facing a non-viable premature birth or a miscarriage, the worker has the right to take 2-4 weeks of paid leave with the salary that she earned at the beginning of the leave¹⁸, or in case of illness resulting from pregnancy or childbirth with the support of a medical certificate, the employee has the right to take up to 3 months of paid maternity leave.¹⁹ If the worker is still unfit for work for more than 3 months due to sickness caused by pregnancy or childbirth, the employee will be granted a leave which, unless otherwise specified, shall be without pay for all the time necessary for recuperation, retaining her employment and rights acquired under the contract²⁰. In addition, if the employer does not comply with their obligation of granting paid leave, the worker has the right to receive double the compensation for leave not granted²¹ as well as practicing their right to make a demand before the competent authority.²²

The Labor Code also provides for “extraordinary circumstances”, where extensions of maternity leave are provided, which may occur in the birth of a child continue to be granted to workers. Accordingly, when a worker is facing a non-viable premature birth or a miscarriage, the worker has the right to take 2-4 weeks of leave, with the salary earned at the beginning of the leave²³, or in case of illness resulting from pregnancy or childbirth with the support of a medical certificate, the employee has the right to take up to 3 months of paid maternity leave,²⁴ and if the worker continues being unfit for work for more than 3 months due to the disease because of pregnancy or childbirth, the worker will have leave which, unless otherwise specified, shall be without pay for all the time necessary for their recuperation, retaining their employment and rights acquired under the contract.²⁵ Also if an employer does not comply with the obligation of granting paid leave, the worker has the right to receive twice the compensation for leave not granted²⁶ and to make use of their right to file a complaint before the competent authority.²⁷

5.2 Maternity Leave

The CEDAW provisions with respect to maternity leave are vital to enabling the integration of women’s childbearing role in the workforce, and are essential for the implementation of women’s effective right to work. The essence of these provisions is maternity leave with pay or comparable social benefits, since most women depend on their wages for income and cannot afford to take maternity leave without pay. In addition, in terms of the ILO Convention on Part-Time work, in the E-C Part-time work directive and in the case law of the ECJ, disadvantageous treatment of part time worker, including the absence of maternity benefits, constitutes indirect discrimination against women as it adversely affects a much greater number of women than men. This is particularly true in the maquila and agricultural sectors in Honduras, where there is a wide variation in maternity protection provisions, depending on sector and trade union presence. In the agricultural sector, where there is no collective bargaining agreement providing for maternity benefits, women receive no benefits at all. While the CEDAW Committee requires? States Parties to have “a certain margin of discretion to devise a system of maternity leave benefits to fulfill Convention requirements,” currently there is a total absence of any system of maternity benefits in the agricultural sector.

¹⁸ Art.137 of the Labor Code, Art.71 of the *Reglamento General de la Ley del SS*.

¹⁹ Art.137 of the Labor Code.

²⁰ Art. 138 of the Labor Code.

²¹ Art. 146 of the Labor Code.

²² Art. 80 of the Constitution.

²³ Art.137 of the *Labor Code*, Art.71 of the *General Regulations of the SS Law*.

²⁴ Art. 137 of the *Labor Code*.

²⁵ Art. 138 of the *Labor Code*.

²⁶ Art. 146 of the *Labor Code*.

²⁷ Art. 80 of the *Honduran Constitution*.

5.2.1 Maquila Sector

During the interviews, all women from the maquila expressed that neither the ten weeks granted by LC, nor the twelve weeks granted by IHSS for maternity leave are sufficient for complete recovery and that neither the LC nor the IHSS establish a distinction between natural childbirth (vaginal) and cesarean delivery.

5.2.2 Agricultural Sector - North

While workers interviewed in the northern part (La Lima) of the country explained that they have a union and a collective agreement in their workforce, which contains a clause granting workers twelve weeks of maternity leave, they consider these twelve weeks to be too few and said they should be granted fifteen weeks of maternity leave: six weeks before the birth and nine weeks after delivery when it is natural childbirth, and in the case of delivery by cesarean section they should have six weeks before childbirth and twelve weeks after delivery for a total of eighteen weeks. In their case they are only affiliated with the IHSS for disability, old age and death benefits (IVM, for its Spanish acronym). For medical care they go to a private clinic that the company pays for, and includes maternity leave, IVM (Disability, Age and Death) and medical checkups, "which are a reality now, because this was a victory that they got through the collective agreement that our Union succeed in creating." These workers were adamant that if they did not have a Union representing them, they would not enjoy any of these benefits, "because that is how it was years ago when there was no Union representation in the Garments sector".

5.2.3 Agricultural Sector - South

Another group of workers interviewed in the South (Choluteca) of the country explained that they do not have maternity leave, have never been affiliated with the IHSS, and only rest on Sundays. The farm that they work on is small and more than 160 women workers are there. None of them are affiliated with the IHSS and none receive maternity leave benefits since the sector to which they belong is completely excluded from labor rights. These women are paid 150.00 lempiras (less than 7 USD) daily, or 1,050.00 lempiras (approx. 48 USD) weekly, with a schedule of 6:30 am-3:30 pm from Monday to Friday, and 6:30 am - 12 pm on Saturdays. These workers are employed via temporary contracts from October of each year until May of the following year and stated, "it has always been this way, although there are permanent staff and they are enough." Alternatively, at the end of the harvest "they fire us and one or two weeks later they hire us again as temporary workers and then comes the next harvest and we continue to work. However, if they want to at the end of the second harvest we are fired and are paid only for the last week of work." At the end of the season they are only paid for the last payment of the days worked and they do not pay us benefits or employment compensation. They explained, "this is what is experienced in all agricultural farms of the South (Choluteca)." One employee summarized the situation in the following way,

"we are not affiliated to the IHSS, we do not have maternity leave, there is no job security, they do not pay us employment benefits and we are discriminated against if we're pregnant and are fired because of it, they do not hire us and in any case we do not dare to apply for jobs, because we know that agricultural work is hard, we don't have social security and this type of work can affect our health and the health of the unborn child. Apart from the fact that we do not have any childcare services, which requires us to stay at home after the birth because we don't have someone to care for our children, and that further limits our food by not having a fixed income and the vast majority of us are single mothers. The South (Choluteca) is an area of the country in complete abandonment, no one cares about us, politicians visit us only when they are in a political campaign to ask for our vote, when the elections pass they do not remember us and it is as if we were not part of the country."

One of the central difficulties with the existing law, is the inconsistency between the LC (Labor Code), which only grants ten weeks, and the IHSS law, which grants twelve weeks, but even those twelve weeks are not sufficient, especially for caesarean section deliveries.

Recommendations:

The government should clear legislative inconsistencies between the Labor Code and the IHSS law and adequately enforce Labor Code provisions that guarantee the worker the right to double compensation for leave not granted.

Honduras should sign and ratify the Maternity Protection Convention, 2000 (C183) and Convention 183, which grants maternity leave of at least fourteen weeks to women workers.

State of Honduras should consider the possibility of increasing maternity leave to at least fifteen weeks for all pregnant workers who have a natural birth, which would constitute seven weeks before the birth and eight weeks after birth. It should consider guaranteeing at least seventeen weeks for pregnant workers that have give birth by C-section, with seven weeks before birth and ten weeks after the birth.

CEDAW²⁸ makes clear that all provisions of the Convention should be applied to women in rural areas and discrimination against women in rural areas should be eliminated. Accordingly, the State of Honduras must regulate and create conditions and make sure that there is “preferential treatment” for pregnant women²⁹ (such that they are not subjected to physical hardship), that all women are affiliated to the IHSS (currently agriculture, livestock and forestry women are exclude according to article 2 of the LC), that companies having less than 10 permanent workers go through the system of compulsory affiliation,³⁰ and that all women be guaranteed job stability and respect for all their human, social and labor rights³¹.

Honduras should carry out all necessary steps to completely eliminate discrimination faced by women working in the sectors of agriculture, livestock, and forestry or other underprivileged sectors where women do not enjoy the benefits of being affiliated to the IHSS through the system of compulsory affiliation, labor rights, stability and labor compensation.

5.3 Payment during maternity leave

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances

5.3.1 Leave with Pay

Interviewed workers from the *maquila* sector mentioned that the payment process for maternity leave begins when the treating doctor from the IHSS delivers the worker’s medical disability certificate, where the due date is stated along with the dates for the beginning and end of the leave. In practice, this means that the worker must take the medical disability certificate to the employer’s human resources office, where it is signed and sealed. The worker must then give it to the administrative offices of the IHSS and where she will be given a payroll number and phone number so that she can ask for the status of the payment process and know on which day she will

²⁸ Art. 14 (1 y 2) de la CEDAW, Art. 20 of the Rules and Regulations of the LIOM.

²⁹ Art. 127 of the Labor Code, Art 27 of the Reglamento de la Ley de Igualdad de Oportunidades para la Mujer and Art. 11(d) of the CEDAW.

³⁰ Art. 10 (a, d), 25 of the General Regulations of the SS Law and Art. 20 of the Rules and Regulations of the LIOM.

³¹ Art. 3, 25 and 194 of the Labor Code and Art. 24 of the American Convention of Human Rights (Pacto de San José)

receive her payment. In theory this is the standard process which should work, but since 2010, no longer functions efficiently and many workers have been waiting for more than three years to receive their compensation.

Interviewees reported that 15 years ago the service from IHSS regarding payment of maternity leave was efficient, given that the payment was received within a period of 30 days after providing the respective certificate of disability. However, this efficiency began to erode in 2010 and that the entire process was slowing to the point where 3 years ago they simply stopped the payments, regardless of whether they were for maternity, disability or retirement. Interviewees reported that, it wasn't until late 2014 that the workers became aware that all the delays in payments, the lack of medicine, the lack of medical care and the failure to perform surgeries were due to acts of corruption from the part of the authorities responsible for the IHSS against the entire working population affiliated to the IHSS.

Another significant difficulty is that part of the compensation paid by the employer is based on the minimum wage, and did not take into account the average daily production under which the workers were producing before the leave or before being transferred due to pregnancy (such transfers rarely occur and only happen when the treating doctor establishes that it is a high risk pregnancy and orders that the worker be transferred.) *Workers interviewed were adamant that they had never witnessed the situation where in the situation where employers who did not abide by the law, an employee was granted double the time or compensation, or additional days or weeks.*

Interviewed female agricultural workers in the North of the country, said they belong to two (2) different organized groups, that each group has its respective union representation and that both have signed collective bargaining agreements, within which there are maternity leave provisions. Because there are two (2) different organized groups, there are certain differences between the provided maternity leave: 1) If the employer is only affiliated with the IHSS for Disability, Age and Death (IVM=DAD) risks³², then the maternity leave payment is covered completely by the employer and the payment is received in full within 2 to 5 weeks after the beginning of the maternity leave; 2) If the employer is affiliated with the IHSS for all risks³³, then maternity leave payment is covered both by the employer and the IHSS. With regard to this second category, interviewees reported that the IHSS's payment hasn't been received since 2010, meaning they have only received the employer's portion. Both groups of organized agricultural workers in the North represent that they receive this benefit solely due to the collective bargaining agreement signed between their Union and their employer, a benefit which would not exist if they didn't have a Union to represent them, as is the case with the other agricultural workers. A third of agricultural workers said that since they started working on farms, their employers have never asked them to join the IHSS.

5.3.2 Leave without loss of former employment, seniority or social allowances

Almost all of the interviewed women were of the view that *when a worker does not come to work because she is pregnant or out on health leave and then returns to work, when she returns to work, she will not continue working on the same equipment or production line as prior to her absence. This is because she will have been transferred to another machine or line, usually a non-producing training line. In that situation, workers are paid only minimum wage, and cannot get bonuses for production or quality or any other incentives since they are on new machines and in training new goals are always very high and difficult to meet since the workers do not have experience with the new styles.*

³² Disability, Age and Death

³³ Art.13 of the General Regulations of the SS Law.

Recommendations:

The State of Honduras must comply with the payment of maternity leave to every pregnant worker. The IHSS is responsible for 66%³⁴ of the maternity leave payment and the employer is responsible for the remaining 34%. It is important to note that most of the time the 66% covered by the IHSS does not actually cover 66% of the salary that each worker receives³⁵, meaning the employer is forced to pay the remaining percentage so as to cover the complete current salary of each worker.

The State of Honduras, through the IHSS, should review all certificates of disability for maternity leave, for miscarriage, and for any other disability and/or pension that has been submitted to their administrative offices since 2009 and a record should be made of all pending disability payments. In addition, it must set dates for the payments in order in which the disability certificates were submitted and begin making pending payments within three (3) weeks of the date of publication of this report. All outstanding payments should be made within a (1) year after the date of publication of this report.

The State of Honduras, through the Ministry of Labor and Social Security and the General Labor Inspectorate, should monitor and inspect worker-employer relations³⁶ and set dates for the inspection of companies to review accounting books, salaries, records of payments³⁷, etc. from 2010 onwards. Thereby ensuring that the payments for workers who are pregnant³⁸, have had a miscarriage³⁹ or are breastfeeding⁴⁰, are calculated and paid correctly based on average wages earned before the leave, and not on the minimum wage, as is common practice according to the interviewed workers.

In addition, if during the inspection, cases are found of leave due to pregnancy, miscarriage and/or breastfeeding that haven't been paid as established in the LC, noncompliant companies must immediately make all necessary adjustments and corresponding payment within one (1) month after the publication of the requirement, and one (1) week after the end of the period granted for payment. Inspectors from the Ministry of Labor must to verify the companies' compliance with this requirement. Honduras should ensure that when a worker returns to work after pregnancy/illness, she is not transferred to a less favorable position, with lower pay and/or benefits.

5.4 Paternity leave

Article 5 States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

At both national and the individual family level, maternity is considered an issue exclusively of the mother. Interviewees explained that their spouses or partners consider that they don't have any responsibility for the care, upbringing, education and daily family interactions with their

³⁴ Art. 43 of the General Regulations of the SS Law

³⁵ Art. 136 of the Labor Code.

³⁶ Art. 591 of the Labor Code.

³⁷ Art. 617 (a) of the Labor Code.

³⁸ Art. 135 and 136 of the Labor Code y Art. 59, 67, 68 y 73 of the General Regulations of the SS Law.

³⁹ Art. 137 of the Labor Code.

⁴⁰ Art. 135 and 141 of the Labor Code.

children. The few that share some part of the responsibilities, consider that their only responsibility is as a provider and nothing more. One interviewee described the link between private and public sexism in the following way:

We as women are subjected to a lot of discrimination by machista (sexist) men and there is no interest from the part of the congress in legislating in favor of us as women. The men that live with us always say, you are the mother, it's your responsibility to take care of your kids, they don't even say our kids. The same thing happens in our workplaces, where for the simple fact of being a woman our supervisors (men) look down on us, they say we aren't worth anything, etc. and that's why we think that 85% of men are machistas, you can see this very well when the supervisor is not a man, but a woman, and she is the one giving orders to the men that are her subordinates, they don't like to listen, they make faces and they don't like to listen or do what the supervisor says.

Workers from the maquila said the following about paternity leave:

Paternity leave? What is that? That doesn't exist! This question makes us laugh because we have never heard about it, in the companies where we work they have never given any type of paternity leave, what is common and always happens is that when the father realizes the mother is giving birth he asks for permission to leave and they give him a personal day but they don't pay for that, because they say it's personal, that he isn't the one giving birth, and it isn't necessary for him to leave. For all of us this is new, we didn't know it existed, nor has a provision ever existed in the collective bargaining contracts.

Similarly, the workers in the agricultural sector said that they didn't know about paternity leave, and that it was the first time they ever heard of that type of paternity leave. Not even they, as women, have the benefits of the IHSS, nor of maternity leave, much less would the men.

Recommendations:

According to CEDAW, Member States should make an effort to guarantee family education that includes recognizing the common responsibility of men and women in the upbringing of children. It is clear that the State of Honduras has not taken appropriate measures to change socio-cultural patterns of behavior between men and women, by attempting to get rid of prejudices and common practices that are based on stereotypical views on inferiority and superiority, which make it so that maternity is considered the sole responsibility of women and not both parents.

The State of Honduras should conduct large scale campaigns on a national level, making it known that the responsibility for the upbringing, health, education and sustenance of children is a responsibility shared by both parents, and so irrefutably grant paternity leave to men when they ask for it for a health problem with their child⁴¹.

The State of Honduras through the *Secretaría de Educación* (Ministry of Education) and in collaboration with the *Instituto de la mujer* (Women's Institute), should include in the school curriculum from the third grade and on, themes of gender equality, common responsibility between men and women in raising children and equal opportunity. These ideas should not be taught in a sporadic or superficial manner, but should be a consistent part of the curriculum from the third to twelfth grade and should be tested just like other material.

⁴¹ Art. 5 y 16 (d) of the CEDAW

5.5 Health and Protection at Work

The following provisions are of particular relevance to women's employment in low paid and precarious work, where they are more likely to be working in unsafe and unhealthy conditions.

11 1 (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

11 2(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

Women reported difficulties getting transferred from heavy machinery during and after pregnancy. In fact, all health-related decisions were made by the factory-employed doctor,⁴² who workers perceived as motivated by management objectives, rather than health concern of workers. *When the company doctor does order the transfer, the worker's salary is affected because the company does not pay based on production when it transfers a pregnant woman, instead the pay is based on the legal minimum wage.*⁴³

Interviewees mentioned that the IHSS doctors have said to them on many occasions that for six (6) months after delivery they should refrain from doing all kinds of activities and movements that involve a lot of physical effort. However, one of the most significant problems they face when they return to work is that the work they perform requires great physical effort and hence directly affects their health. For example, we were told of the case of a woman who returned to work between August-September 2014, after having had a caesarean birth, and began working normally operating the machine for gluing tape. As a result of the physical effort needed to operate this type of machine, less than two (2) months after returning to work her C-section scar opened. The doctor had to suture it back and the worker was on health leave for twenty (20) days. After her return from disability leave, she was transferred to a different operation, which could have been avoided if she had been assigned to an operation requiring less physical effort or had a longer maternity leave. Interviewees emphasized that this is not an isolated case, rather it is just one case of the many they see daily within the maquila sector. For example, another worker who was also assigned to the same gluing tape machine got an infection in her breast due to the heat that comes off this type of machine and the repetitive motion required to operate it.

Recommendations:

The State of Honduras should⁴⁴ through the Ministry of Labor and Social Security monitor companies established in the country and ensure that they comply with the guarantees and rights granted to workers under the Constitution⁴⁵.

The State of Honduras, through the Ministry of Labor and Social Security, should conduct monthly job inspections in all companies, The State should also conduct random interviews with workers from each inspected company to verify that every worker is able to

⁴² The use of company doctors is based on an agreement/regulation between the IHSS with the companies to avoid the workers make uses of the IHSS clinics.

⁴³ *This doctor is paid for the company in agreement with the IHSS, to avoid the workers visit the IHSS clinics for health issues, the companies have the system company doctor don't allow the workers visit the IHSS clinics because they have bee attend inside the company.*

⁴⁴ Art. 138 of the Constitution of the Republic and Art. 24 of the CEDAW.

⁴⁵ Art. 3, 25 of the Labor Code and Art. 128 (11 and 15) y 135 of the Constitution. The rules and regulations of the EOWA state that women have the right to health and to medical attention either through the IHSS or the health system. Likewise, the General Regulations of the Social Security Law provide that any woman that is actively insured is entitled to benefits under the IHSS, either because of an illness, accident or pregnancy. It also establishes that their children may be treated until 11 years of age.

apply for a day off, either for a doctor's appointment or to accompany and care for the health of their minor children.

Honduras should identify workplace risks and employers should be obligated to take efforts to reduce such risks, particularly with reference to pregnancy and post-pregnancy vulnerabilities.

Honduras must not punish women for giving birth by “demoting” them on their return to the workplace or removing prospects of obtaining bonuses.

6. Necessary Supporting Social Services to Combine Family Obligations and Work

Article 11 2 (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

6.1 Breastfeeding and Childcare Leave

The majority of interviewed workers explained that in the factories where they work, *there is no place to nurse, store milk, or breastfeed our children, and never has been.* The biggest limitation and most frequent excuse that workers report hearing when they want to use their breastfeeding time (leave early or come in late) is that, there is never anyone to cover their shift when they want to use that time. Meaning they have to decide whether they should nurse, which is their right, or not do it and keep working normally to try and reach the high goals that they always set, “and that is why they are always working in a hurry, in their lunch hour and in the breaks, but we don't succeed in meeting the goal.”

Discrimination occurs in other ways too - since not all workers have the same production capacity and the pressure to produce is so high, many of these women prefer to stay late to try and reach the goal and not take their nursing hour, because this will lower their average salary and the average salary of the whole team. As a consequence, workers report experiencing hostility from their co-workers which affects them on a daily basis. For example, they reported harassment from teammates who said

"Don't go to the bathroom so much, don't stop, hurry up, hey fat girl hurry up, look we are getting behind because of you, because of you we aren't going to get paid", this is all because of that same pressure from our supervisors, they always bring us together and say "Why aren't you producing? What's happening with the production? Why is it so low? The other team is beating you and they have less people than you, etc." This is a subliminal way of pressuring all of workers, so that they will reach production goals. And that is how discrimination from co-workers occurs against those workers who are pregnant, nursing, with health problems from repetitive movement or single mothers with no one to take care of our children.

Similarly, when workers ask to leave because they have a sick child, employers almost always respond that there is no one to cover their shift, that it isn't possible, or that their mother, sister or daughter should take the child to the doctor and take care of them. *"If we are very lucky and they let us go, it is only when there is only one hour left or half an hour and that's the way it always is".*

6.2 Child-Care Center

The Cedaw Committee has expressed concern where the responsibility for childcare and family is placed exclusively on women, since this encourages women's marginalization in the economy and exacerbates poverty. The Convention does not impose an obligation on States to provide childcare services, but only an obligation to encourage their provision.

Interviewed workers reported having no access to a childcare center or childcare subsidies, either within the company or outside. The administration's position has always been that it is not interested in making any kind of economic contribution, since it requires too much responsibility on its part (i.e it wants to avoid responsibility if a child has an accident or dies). Consequently, workers have been forced to rely on their mothers, grandmothers, and teenage children to help care for their babies or small children. Workers who do not have mothers or grandmothers living with them, are compelled to pay for childcare "even if it means that we have less money to feed our children, because the minimum wage we are paid in the maquila is very low in comparison with other salaries, and our work is very hard."

Workers interviewed in the maquila sector stated that the active working population, direct or indirect ⁴⁶ in each of the companies where they currently work, range from approximately 1,358 workers in the smallest maquila to more than 5,000 workers in the largest. The agricultural workers reported that there are approximately 300 workers per farm. The workers explained that, "mothers pay out of pocket at least 350.00 lempiras (approx. 16 USD) per child, without including food, which we have to bring ourselves, and the payment always depends on the age of the child. The more responsibility needed for the care of the child, the more we have to pay the people taking care of our children. The number of children we have is between 1 and 7 and their ages between newborn and 17 years old."

Recommendations:

Honduras should ensure that:

- Companies grant preferential treatment to pregnant workers⁴⁷, base the payment of maternity leave on average production⁴⁸ and not the minimum wage, allow all breastfeeding women⁴⁹ to take their daily breastfeeding hour and compensate this hour based on average production.⁵⁰

- No restrictions should be made in terms of visits to the IHSS. That mothers⁵¹ with sick minor children should be able to leave work when requested, whether the child be sick at home, in a hospital, or for a funeral. In addition, the permission to leave should be extended to parents and siblings, given that many workers are responsible for caring for both their parents and many even their siblings.

- It regulates work hours and production goals because workers consider them to be very high and a form of forced⁵² labor that is detrimental to their health.

Honduras should set dates for monthly inspections for all companies established in the country and that these inspections should aim to establish and verify that: all pregnant

⁴⁶ Direct workers are all those who are working for production and wages are calculated based on average and indirect workers are those who do not work for production or earn their pay based on average, such as assistants, manual labor, distributors and they earn minimum wage.

⁴⁷ Art. 127, 147 del Labor Code, Art. 27 of the Rules on Equal Opportunity for Women and Art. 11 (2d) of the CEDAW.

⁴⁸ Art. 135 of the Labor Code.

⁴⁹ Art. 140 of the Labor Code y Art. 27 of the Rules on Equal Opportunity for Women and Art. 11 (d) de la CEDAW.

⁵⁰ Art. 141 and 135 of the Labor Code.

⁵¹ Art. 20 (7) of the Rules on Equal Opportunity for Women

⁵² Art. 1 of the Convention on the Abolishment of Forced Labor, 1957 (C105)

women benefit from preferential treatment, that they benefit from safe conditions, and that they are not exposed to conditions dangerous to their health or that of the developing child⁵³; that all lactating women enjoy the nursing benefit without detriment to their salary and without being subject to discrimination for practicing this right; that all mothers have permission to leave work due to sickness of minor children; and that a special unit be created to revise and verify production goals set for workers, as well as the consequences these have to the workers' health.

Honduras should ensure that all companies put into practice the special protection granted by the LC to all women, which consists of intermediate breaks⁵⁴ of two (2) hours within the normal workday⁵⁵. To date no woman has this benefit. Likewise, all companies should be required to train its administrative personnel, both direct and indirect, regarding Non-discrimination and Gender Equality⁵⁶, and to raise awareness in both interested parties about the need to eliminate: obstacles that limit the development of men and women; the stigma of pregnancy as a sickness; insults to pregnant women; and psychological pressure to meet production goals, etc.

The Ministry of Labor and Social Security shall adequately supervise the companies and require that they provide a nursing room for the workers, as well as psychological services as established in the LC⁵⁷ and the LIOM⁵⁸.

The Ministry of Labor and Social Security, shall set dates for monthly work inspections of the companies to determine which companies are complying with the ordinance. Prompt application and execution should be required immediately of non-complaint companies.

Honduras must enforce the LC requirement that childcare centers be provided by all employers with more than twenty (20) workers.⁵⁹

We recommend that the Government of Honduras, through the Ministry of Labor and in collaboration with the *Instituto Nacional de la Mujer* (INAM, National Women's Institute), make known to employers their obligations, without exceptions, if they have more than **thirty (30) (is it 30 or 20)** workers⁶⁰ in each of their establishments, and that they must meet these obligation as soon as possible, including maintaining a childcare center and nursing center to care for workers' children whoe are under seven (7). These childcare centers must be approved by the General Labor Inspectorate and staffed with qualified personnel throughout the work day, likewise the INAM should verify the quality of the service provided and perform unannounced inspections.

7. The Right to Work and Right to Health

Article 11(1)(a) "the right to work as an inalienable right of all human beings". The Cedaw committee understands that the right to work entails accessibility to decent work. However, women in many countries have an acute problem regarding access to decent work in the formal economy. In addition, there is a strong connection between the absence of decent work, and deterioration in health. In terms of General Recommendation 24 on the Right to Health Care, the

⁵³ Art. 20 (11 and 18) and Art. 27 of the Regulations of the Law for Equal Opportunity for Women

⁵⁴ Art. 130 of the Labor Code.

⁵⁵ Art. 328 of the Labor Code.

⁵⁶ Art. 5 (a) of the CEDAW.

⁵⁷ Art. 140 of the Labor Code.

⁵⁸ Art. 24 of the Regulations of the Law on Equal Opportunity.

⁵⁹ Art. 142 of the Labor Code.

⁶⁰ Art. 20 (3) and 23 of the Rules and Regulations of the LIOM and the Workers Rights Consortium (WRC), WRC Evaluation of Gildan Activewear El Progreso (Honduras), 2004, page 31, available at http://workersrights.org/Freports/Gildan_El_Progreso_espanol7.29.04.pdf

CEDAW Committee has noted that “special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups”.

Interviewed workers felt discriminated against and exploited by long work days, with 4x4 and 4x3 shifts. In their view, the prohibition of forced labor has not disappeared or been reduced, on the contrary it is even stronger than before and with time the terminology has also evolved because it is no longer known as forced labor, but as **"production goals and efficiency curve."** The production goals are set very high to stop workers from getting bonuses or lunch tickets, and at the same time the companies pressure them to reach those goals and to produce. ⁶¹In the words of one interviewee:

We are always making only minimum wage, and not because of our production, because we are still not reaching the levels required by the company, which causes stress and lack of motivation, we have physical and psychological pressure from our supervisors, production managers and really all of the administration and sometimes even our coworkers, which is why we are almost always forced to endure any ailment or suffering in silence, and we avoid going to drink water so as not to go to the restroom, so as to avoid being transferred from the team we work on currently, to avoid receiving deductions in payments and therefore bring less money home to sustain our children and families (parents and siblings).

Another way in which workers report being affected adversely, is by style changes (i.e when the company changes the style they are producing for a new style or sewing method. Most of the time this requires more than one operation per worker, and is more time-consuming, since any time that there is a style change the workers have to begin a new training curve. There was a case where workers were told that the new style's training curve would be ten (10) weeks. However, after the second week of training they began to increase their percentage of daily production. This meant that ultimately there wasn't ten (10) weeks of training, but rather eight (8) weeks. In the ninth (9) week workers already had to be producing at 100% efficiency. These types of requirements automatically create forced labor, “which is why we are always asking that they revise the formulas for production goals, as well the revolutions of each machine according to its state, and the number of weeks of training, because many of us work 4x4 and 4x3 shifts which are very long work days and every time we finish our shift there is a big interruption and when we go back to work it is like starting all over again and that affects our production capacity, but they never listen to us or pay attention to our complaints.”

Workers described this pressure as being exacerbated when they are working with plus sizes in this way:

“In the company where we work we produce up to the size 6X. The administration only thinks about production, production and more production and never stops to think about our health. The discrimination we receive from our co-workers increases and gets worse every day because there is no one to cover our shift when we leave to nurse or are on leave, and the rest of the workers that stay behind working are forced to do the work of the person missing. Apart from that, the administration isn't content with us reaching 100%, they now demand as a minimum 110% of production. Now you draw the conclusions, do you think that our male co-workers are happy with the women? Of course not! They aren't. All of these problems would be solved very easily, if the companies thought about our health, about our rights and if they

⁶¹ Note the worker needs to reach the production goals every single day to get a lunch tickets, if the worker doesn't get the production goals one day, they lose the lunch tickets.

hired workers that could do multiple operations to cover work posts when we have some kind of emergency or need, or when we have the right to take time away from the company".

4x4 and 4x3 shifts, be they day or night shifts, are contrary to the LC, which establishes that the ordinary work day will be that agreed upon between the parties⁶² or the legal maximum⁶³ (the maximum ordinary day shift⁶⁴ cannot exceed eight (8) hours, and the maximum ordinary night shift⁶⁵ cannot exceed six (6) hours daily). 4x4 and 4x3 day shifts require workers to work eleven (11) hours daily and the workers are no longer seeing a 25% increase over the ordinary workday salary⁶⁶ nor are they seeing a 75% increase over the ordinary night shift salary⁶⁷. In addition, the 4x4 and 4x3 day and night shifts also affect the double salary of rest days (Sundays), national holidays and days off of the workers. The method used with these shifts is to work 4 days and rest 4 or 3 days. This means that the day they go back to work changes successively and so workers are forced to work on rest days and holidays as if they were ordinary days, which is why they don't receive the double salary on these days. This directly affects the workers that work these shifts, which exceed the limits⁶⁸ of the ordinary workday.

Recommendations:

Honduras must:

-Ensure that employers establish and maintain safe and healthy work environments and that workers be consulted and included in the creation of these measures.

- Create effective sanctions in the face of violations of workplace conditions, including fines, criminal sanctions and factory shut downs, where appropriate.

-Ensure that workers are aware of their rights and know the complaint procedures and mechanisms.

-Ensure that companies report the number of workplace injuries and illnesses and that these workers are provided with access to medical care.

⁶² Art. 3 of the Labor Code.

⁶³ Art. 319 of the Labor Code.

⁶⁴ Art. 322 of the Labor Code.

⁶⁵ Art. 322 of the Labor Code.

⁶⁶ Art. 330 (a) of the Labor Code.

⁶⁷ Art. 330 (c) of the Labor Code.

⁶⁸ Art. 334 of the Labor Code.