Creating an Enabling Environment for Responsible Labor Practices

Experiences in Costa Rica and El Salvador

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Introduction and Methodology

For a public policy framework to lead to a sustainable culture of compliance—where compliance with national labor standards and international conventions and best practices is the common norm—business owners and managers must be persuaded and have evidence that responsible labor practices are in their self interest (the business case). In some instances, this mutuality of interest 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 fully appropriate for the public sector, acting on behalf of the common welfare and the formation of a public good, to establish a framework of incentives to advance responsible labor practices (RLP). This may involve resource transfers to the firm (as in tax and tariff exemptions) or directly to the workers (as in scholarships for skills training).

Building and maintaining a strong and vibrant culture of labor compliance and RLP require government institutions that enable managers, workers, and public sector employees to partner in pursuit of shared objectives. Institutions must be capable of providing a continuing stream of current information and measurable indicators of progress, offering education and training on fundamental concepts and innovative solutions to emerging challenges, and ensuring continual feedback to stakeholders as well as rewards for success. This paper discusses why governments should perceive the creation of an enabling environment for RLP as a public good and provides recommendations on how the public policy framework to create such environment can be built.

In order to present compelling results supporting the business and social benefits of responsible labor practices, this study combined field interviews with key stakeholders in Costa Rica and El Salvador with a careful consideration of existing legal instruments—national and international—dictating labor standard practices.¹

¹ This research was made possible by a grant from the U.S. Department of State to BSR for its “DR-CAFTA Responsible Competitiveness Project.” The project worked 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...
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In the case of Costa Rica, these consultations were undertaken in 2010, while those of El Salvador were carried out in 2009. Consultations in both countries were originally conducted to prepare separate reports for the government of each country to design a public policy framework to advance responsible labor practices. This research article also presents public policy recommendations on how governments can create an enabling environment for RLP, using Costa Rica and El Salvador as examples.

Field consultations were carried out with public, private, and civil sector experts on labor standards with the purpose of assessing the current state of labor issues, the characteristics of the legal architecture, and the actual institutional capacity to feasibly implement a public incentive structure enabling responsible labor practices. These experts included policymakers, corporate representatives, academics, union members, and leaders of non-profit organizations.

In Costa Rica, a total of 95 people were interviewed, belonging to 57 organizations: 18 public institutions, 16 private institutions, 21 civil society organizations, and 2 other institutions. In the case of El Salvador, 80 people were interviewed from 49 organizations in total: 18 public institutions, 13 private institutions, 12 civil society organizations, and 6 other organizations (See Table 1 and 2 in the appendix for a complete list of interviewees).

Among the legal instruments reviewed are employment of immigrant labor regulations, national competitiveness policies, free-trade zones subsidies, public and private bank lending criteria, voluntary gender equity certifications, government procurement guidelines, laws governing construction, high way maintenance regulations, mining sector regulation, and fiscal incentive instruments to encourage RLP.

**Defining Responsible Labor Practices**

RLP are one component of a broader corporate social responsibility (CSR) strategy. CSR means aligning business operations with recognized social and environmental standards and expectations, fulfilling legal obligations (e.g. paying taxes and eschewing corruption), but also voluntarily going further to invest in human capital and other public goods, environmental stewardship, and, in the context of developing countries, acting affirmatively to alleviate poverty.

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Companies can meet these responsibilities both through their daily operations and strategic planning—i.e. the way they treat employees or how they manage energy expenditures—and through their corporate philanthropy and social investments. Responsible labor implies long-term investments in human capital and good wages that increase in tandem with rising productivity.

For the purpose of this article, responsible labor is conceived as a component of a broader CSR agenda that includes environmental sustainability and community investment. First, because the international CSR movement embraces all three sets of goals and many systems of performance indicators cover all three-issue areas. Second, because many firms that score well on the other components of CSR are likely to score well on responsible labor. Lastly, since public attention nowadays is fixed on environmental sustainability and on community development, it makes coherent sense to link the promotion of labor standards to these other high-profile issues.

Increasingly, high-quality CSR is seen as a tool to advance the international competitiveness of the firm and, if adopted widely, of the country brand. International competitiveness is variously measured in terms of market share, the ratio of exports to total production, or the rate of growth of exports to production. CSR/RLP improves firm competitiveness through various channels: for example, by increasing labor productivity; by inducing energy savings that reduce the costs of production; and by facilitating access to international markets when global brands take into account CSR/RLP in their sourcing decisions.

Insofar as responsible labor practices increase a firm’s international competitiveness, and in the long run the country’s well-being improves, the economic development and business case for responsible labor is revealed.

Responsible Labor Practices and Local Contexts

Although with important differences regarding political, economic and social characteristics, Costa Rica and El Salvador both possess the conditions that call for improved labor practices but also have specific characteristics that allow for the necessary changes to accomplish such improvements.

The Favorable Context of Costa Rica

In Central America, Costa Rica excels in economic and social performance with the highest standard of living and lower poverty levels in the region. In the 2010 Human
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Costa Rica offers a stimulating economic environment to nationals and foreigners to work, produce, consume and invest in the country. The country ranks 49th out of 179 countries and 9th out of 29 countries in the Latin America and the Caribbean region in the 2011 Index of Economic Freedom (The Heritage Foundation, 2011). According to the 2010 Corruption Perceptions Index, the country ranks 41 out of 178 countries as “moderately clean” of corruption practices in both private and public sectors (Transparency International, 2010).

Costa Rica has traditionally had a stable political environment where civil liberties are respected, essential to create and effectively implement comprehensive socioeconomic policies. The 2011 Political Freedom Index categorizes Costa Rica as a “free” country that guarantees essential political rights and civil liberties, such as free electoral processes, political pluralism and participation, and healthy functioning of the government, freedom of expression, associational and organizational rights, guaranteed rule of law, and personal autonomy and individual rights (Freedom House, 2011).

In terms of productivity and competitiveness, Costa Rica ranks 56 out of 139 countries in the 2010-2011 Global Competitiveness Index and is considered to be in an “efficiency-driven” stage of competitiveness development (World Economic Forum, 2010).

Though the Costa Rican environment is encouraging, there is certainly substantial room for improvement. The 2010 Human Development Index lists the country in the “high” but not “very high” human development category, ahead of Brazil (73) and Colombia (79), but still lagging behind Chile (ranking 45), Argentina (46), Uruguay (52), and Panama (54). The 2011 Index of Economic Freedom indicates the country performs better than countries like Panama (59) and Belize (71) but not better than Chile (11), El Salvador (39), or Colombia (45). The 2010-2011 Global Competitiveness Index classifies the country as “efficiency-driven,” ahead of Brazil (86) and Argentina (82) but still behind Chile (30) and Panama (53).

The Challenging but Promising Context of El Salvador

The context of El Salvador is significantly different from that of Costa Rica. Although it has improved in the last ten years, poverty and overall human development levels are

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3 Scores obtained from UNDP International Human Development Indicators: http://hdrstats.undp.org/en/countries/profiles/CRI.html
still concerning. The national poverty rate is 30.7%, while El Salvador ranks 90 out of 169 countries in the Human Development Index, with an overall score (0.66) below regional levels (0.71).

Investment, labor, and other basic economic freedoms in El Salvador are in contrast high relative to the region. The country ranks 39 out of 179 countries and 4 out of 29 countries in the Latin America and the Caribbean region in the Index of Economic Freedom. On the other hand, corruption perceptions are somewhat discouraging, categorized as “moderate-to-high” and ranking 73 out of 178 countries in the Corruption Perceptions Index.

In terms of national productivity and competitiveness, El Salvador still has a long road ahead. The Global Competitiveness Index ranks the country at 82 out of 139 countries. According to the 2010-2011 GCI Report, some of the most problematic factors for doing business in El Salvador are policy instability, tax regulations, credit access, and inadequately educated workforce.

In the political scene, El Salvador has experienced a democratic political transition. After two decades of rule by a political party closely aligned with the private sector, on June 1, 2009, a new government that views the middle and working classes as its core constituencies took office. This historic moment poses opportunities and challenges: opportunities for a new government committed to improving working conditions, creating more jobs, and alleviating poverty, to consider new initiatives; and challenges for the new government and the nation’s productive private sector to find common ground that advances both public and private goals—without which neither sector can achieve its fundamental interests.

**The U.S.-Central America Free Trade Agreement and Other Multilateral Legal Instruments**

In addition to the specific context in each nation, current multilateral schemes of which Costa Rica and El Salvador are members of have further contributed to create a favorable environment for improved labor practices and to promote increased efforts for greater business efficiency characterized by higher transparency and enhanced labor standards.

One of these international legal instruments is the U.S.-Central America and the Dominican Republic Free Trade Agreement (CAFTA-DR) adopted by Costa Rica in 2009 and in 2006 by El Salvador. This trade agreement requires members to recognize and protect workers’ rights by its national laws—rights such as freedom of association,
collective organization and bargaining, prohibition of forced labor and child labor, a minimum age for employment of adolescents, and acceptable work conditions with regard to minimum wages, work hours and occupational safety and health (Business for Social Responsibility, 2010).

CAFTA-DR was highly controversial in Costa Rica, winning approval by only a small margin in a popular referendum in 2007. Many Costa Ricans questioned whether the market-liberalizing agreement favored business efficiency over social solidarity and might further widen income gaps between the well educated and the under privileged. But the structural adjustment reforms of the 1980s and 1990s that opened the economy to international trade and investment have been largely successful (Cornick & Trejos, 2009).

Trade has been the main driver of Costa Rican economic growth, with export value-added accounting for 51 percent of GDP by 2006. Exports have also diversified both with regard to markets and products. Even as traditional exports (coffee, bananas, and sugar) doubled, new agricultural products emerged and manufacturing exports, including information and computer technologies and pharmaceuticals, soared. Moreover, Costa Rica has become a provider of services ranging from adventure tourism to software design to business call centers. Many of these new jobs are high value-added and well paying. New foreign investments have added to the capital stock and business know-how, and have facilitated access to international markets.

When El Salvador signed and ratified the CAFTA-DR in 2004, it also 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.” Since the trade accord went into effect in 2006, El Salvador has been an active participant in a series of collaborative mechanisms that DR-CAFTA set up to promote responsible labor practices. Notably, the Ministry of Labor and Social Provision (MTPS)’s 2009 mission statement (paragraph 7) proposes that El Salvador “unify and put into action labor laws using international treaties and conventions that have been ratified by the Salvador State.” The mission statement also recognizes the contributions that responsible labor practices can make toward a more productive and harmonious society:

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4 CAFTA-DR (Chapter 16) provides this definition of labor laws: “a Party’s statutes or regulations, or provisions thereof, that are directly related to the following internationally recognized labor rights: (a) the right of association; (b) the right to organize and bargain collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”
“We are the leading institution for public administration in the fields of labor and social welfare, fundamentally focusing on enhancing labor relations through supporting dialogue, social partnerships, and tripartite participation. Our primary goal is to improve real wages, labor conditions, and the quality of life for female and workers, as well as to improve upon production and productivity in a way that considers equality and social justice.”

Acknowledging members’ institutional and resource limitations, CAFTA-DR also put in place important initiatives to provide country members with the necessary tools to actually implement labor laws and to verify and follow up the progress on the matter. A Committee on Trade Capacity Building was created to assist country members with the necessary reforms and investments to stimulate trade-driven economic growth and poverty reduction. The agreement also involves the White Book Verification Project by which country members must document and report progress every six months. These mechanisms have propitiated an environment to build on institutional capacity to enforce labor regulations.

The compound of these formal national frameworks and the pragmatic efforts induced by the CAFTA-DR scheme have provided Costa Rica and El Salvador with a minimum ground to create an effective structure of incentives to ensure responsible labor practices.

The Business Case for Responsible Labor Practices

The business vigor of a country, in a basic context, relies on two main factors: productivity and competitiveness. As defined by the World Economic Forum, competitiveness is the combination of institutions, policies, and factors that determine the degree of productivity of a country; and in turn, productivity dictates the level of prosperity that can be achieved by an economy (World Economic Forum, 2010).

Although factors such as capital investment, technology, and land productivity certainly have an important influence in productivity levels and national competitiveness, the added-value per hours worked that usually measures productivity can also be a consequence of responsible labor practices.

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For instance, better worker-manager communication mechanisms may help set realistic production goals, improve operating processes, reduce the number of defective products and delivery times, identify alternative channels for disposal of hazardous material, as well as enhance or generate new products. These outcomes can lead to lower production costs, higher labor productivity, and new sources of income.

Providing adequate protective equipment, training, and healthy work environments can reduce work accidents and labor injuries, which translate into lower levels of absenteeism, employee turnover, and avoid extra expenses related to hiring and training new personnel. Such effects will positively affect productivity and firm competitiveness.

Salary and benefits—such as free transportation, housing purchasing programs, health benefits for family members—may boost employees’ motivation to work, lead to lower absenteeism and staff turnover, and retain skilled workers. This consequently will foster productivity levels and improve business competitiveness.

The business case therefore lies in the idea that the implementation of enhanced labor standards is beneficial not only for workers, but for the business itself, by raising output per worker and improving firm competitiveness. Responsible labor practices produce what is called “the virtuous cycle” for companies, and if implemented widely, for countries: businesses invest in responsible labor practices, experience a boost in productivity, which allows workers to be paid higher wages and the business to increase its market share and export numbers; this permits firms to enter international markets, which ultimately enable further investments in responsible labor practices (Feinberg, 2008).

Figure 1. The Virtuous Cycle
Nonetheless, these benefits are still not largely publicized or accepted among businesses and these are the instances in which the business case may not hold. Here is where the business case ends (temporarily) and the public-good case begins: it is in the public interest to have governments articulate official incentives to promote the adoption of responsible labor practices.

The Public-Good Case for Responsible Labor Practices

The concept of a public good was first developed by Paul A. Samuelson (1954) and it is defined as a non-rival, non-excludable good “...which all enjoy in common in the sense that each individual’s consumption of such a good leads to no subtraction from any other individual’s consumption of that good.” (Samuelson, 1954) In other words, the consumption of this good does not reduce the availability of others to consume the same good and, simultaneously, no individual can be effectively excluded from its consumption.

Because responsible labor practices and its virtuous cycle generate benefits that go beyond workers’ individual well-being—reaching their families, their employers, and society in general—such practices can be considered as non-rival, non-excludable goods. Non-rival because government investment in improved labor conditions will not prevent others, for instance employers, to benefit from the virtuous cycle, and non-excludable because society as a whole, even those members who did not contribute to it, will benefit from having a prosperous local economy with a well educated workforce and a highly competitive business sector recognized for consistently superior labor standards.
For instance, businesses that make social investment in their community will have a better community in which to conduct their business. And as a result, labor recruiting will be easier and the workforce will be of higher quality; wages will increase while turnover and absenteeism will drop; crime will decrease and, as a consequence, less money will be allocated to protect property and to staff police forces. A better society leads to a better environment for businesses and the benefits go in all directions, not only to employees (Davis, 2001).

Responsible labor practices also bring other benefits for businesses in the short run. For example, firms seek an enhanced public image so that they can gain more customers, better employees, and new markets. This classic public-image concept is easy to extend to the attainment of diverse social goals. And because these social goals are priorities for the public, businesses that want to enhance their public image will need to show support to such goals.

Businesses also engage in socially responsible behavior to avoid regulation by government. Regulations are costly and can restrict businesses’ flexibility to make decisions. Firms want to preserve decision-making power so they maintain initiatives that meet market and social demands. And if a firm by its own socially conscious behavior can prevent the government from introducing new regulations, then that business is accomplishing a public good, along with its own private good (Davis, 2001).

The theory behind the provision of public goods suggests that because firms will benefit from being more socially responsible, they will collectively contribute to create this better business environment. But because such an improved environment is not exclusive to those who contributed to it, the “free rider” problem arises: some firms—either because they are unaware of RLP benefits or because they simply do not want to cooperate—will enjoy of an improved society without contributing their portion of social investments. This is Samuelson’s idea of the impossibility of decentralized spontaneous solution and for which he suggests the incorporation of an incentive to force individual firms to contribute to “…the best state of the world”. These incentives can be negative sanctions—i.e. monetary fines for non-compliance—or positive incentives—i.e. fiscal benefits or public recognition for good practices.

Along this line, the Costa Rican and Salvadorian governments have a legitimate mandate to design a public policy framework based on positive incentives to stimulate business compliance with responsible labor standards. And because designing such a structure from scratch can impose costly and lengthy processes, the ideal scenario would be to utilize existing legal instruments with economically strong and politically acceptable incentives to advance responsible labor compliance.
The Costa Rican Legal Framework

Already internationally recognized for its high environmental standards, Costa Rica’s policy makers have a variety of compelling instruments available to create a public scheme that incentivizes responsible labor practices and consequently attract global partners and investors to a country with responsible practices. These existing instruments include regulations for hiring immigrant labor, national competition policies, public and private bank lending criteria, free trade zone subsidies, voluntary gender equity certifications, government procurement guidelines, and construction permits (Business for Social Responsibility, 2010).

The Costa Rican government has also initiated a number of comprehensive programs to promote responsible labor practices. For instance, the government issued a National Plan for the Prevention of Child Labor and the Protection of the Adolescent Worker 2008-2010 with the participation of several governmental institutions. Another innovative program is the Certificate of Sustainable Tourism that promotes environmental sustainability and responsible labor practices within the hotel sector.

In 2008, the government issued the Ley de Sistema de Banco de Desarrollo in order to promote small and medium-sized enterprises (SMEs), which employ about half of the labor force in the formal sector. This law requires each commercial bank to create an SME fund and to allocate five percent of its profits to such a fund, thus enabling SME access to credit.

Although these are certainly important efforts to improve labor standards, the Costa Rican government still has room in its current legal structure to introduce simple changes to further propel the advances already achieved in terms of responsible labor practices. Moreover, the government has a wide range of potent instruments it could mobilize in a comprehensive whole-of-government push toward promoting RLP and branding Costa Rica as an investment location with superior responsible labor practices.

- **Procurement guidelines.** Current procurement guidelines⁶ could expand the scope of applicable mandatory labor standards—for instance, to present certificates indicating that payments to social security are up to date—that apply to sourcing companies to incorporate broader social goals.

- **Government suppliers system.** The government has an on-line system, CompraRed, which records the business history of each supplier of government services—i.e. delivery timeline, service quality—and that could also track

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⁶ Ley de la Contratación Administrativa y su Reglamento, Artículo 65.
information on labor practices and offer advantage in the bidding process for a history of responsible labor practices.

• **Banking system.** Public banking institutions could incorporate clauses referencing compliance with national labor regulations in their lending practices and loan agreements. Costa Rican financial authorities\(^7\) could request private banks to verify that corporate borrowers are compliant with national labor laws. It could make CSR/RLP a variable for credit allocation across the financial system. More specifically, the National Cooperative Institute,\(^8\) which in 2009 alone extended credit to cooperatives with 800,000 associates, could use its credit instruments to advance responsible labor practices.

• **Building construction permits could anticipate responsible labor practices.** Before building new structures, a developer must pass through a multi-layered approval process that engages the College of Engineering, the National Institute of Housing,\(^9\) and the appropriate municipal authorities. For construction projects beyond a certain size, these entities could design a simple procedure for ensuring compliance with labor (and environmental) standards.

• **The government’s quota system for contracting immigrant labor could better promote labor standards.** Firms participating in the quota system are required to make social security payments as well as to provide transport and housing for migrants.\(^10\) They are also required to provide an end-of-period report to the Ministry of Labor. Nonetheless, the ministry does not have the personnel to carefully audit the labor practices of all participating companies but could consider third-party audits in a balanced way that does not encourage firms to exit the program or to hire illegal migrants.

• **The new administration could form a Competitiveness Commission.** This commission would follow the idea of the old Competitiveness Ministry,\(^11\) eliminated by the new Chinchilla administration, and during which efforts concentrated on reducing inefficient regulations, red tape and other costs of doing business. If the new administration forms such a competitiveness

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\(^7\) Superintendencia General de Entidades Financieras, SUGEF  
\(^8\) El Instituto Nacional de Fomento Coooperativo, INFOCOOP  
\(^9\) Instituto Nacional de Vivienda y Urbanismo  
\(^11\) Ministerio de Competitividad
commission, as discussed during the presidential campaign, it should make CSR a centerpiece of its affirmative agenda.

- **The new free trade zone (FTZ) law**, if passed by the Congress, will provide incentives for exporting firms to source from local SMEs: access to the FTZ subsidies could be conditioned upon a certification of good labor practices. FTZs offer unusually powerful levers for aligning public and private interests.

- **Public educational and training institutions** can also act to create awareness about the positive relationship between responsible labor and business competitiveness: Relevant audiences include employers, workers and the general public. A ready instrument is the National Training Institute (INA).\(^\text{12}\) INA reaches deeply into Costa Rican society, having enrolled 177,488 people in its vocational and technical training programs in 2007 alone. INA has therefore the capacity to inject basic concepts of corporate social responsibility and responsible labor practices into a variety of its courses.

These are good examples of already existing instruments that the Costa Rican public sector could utilize with modest but creative tweaking to encourage responsible labor practices. In some cases, these changes may require regulatory approval, executive decree, or legislative action. Not everything can or should be done at once. On the contrary, reforms should be selective and gradual, with continual testing of results. At each stage, public education should precede implementation.

There are additional changes that could boost the generation of a compliance culture, but that demand new legal instruments and further resources:

- **Implementing a national reporting system** of measures of labor productivity and international competitiveness, as reliable metrics are essential for making a compelling business case for high labor standards.

- **Promoting the creation of a market for social auditors** by setting transparent standards and providing training and certifications. Social auditing should go beyond formal compliance to incentivize continuous improvement of labor practices.

- **Creating a regional training institution for social sustainability** for managers interested in obtaining in-depth training for improving their labor and environmental management systems and ensuring compliance with international standards as well.

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\(^\text{12}\) Instituto Nacional de Aprendizaje, INA
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The Salvadorian Legal Framework

In El Salvador, the Ministry of Labor and Social Provision (MTPS) has primary responsibility for the enforcement of labor laws and regulations but, as elsewhere in Central America, it suffers from seriously inadequate resources and has traditionally lacked the political clout to gain a significantly higher share of the national budget. During 2007, the ministry was allocated a budget of just US$6.7 million or 0.23 percent of the national budget. With 159 labor inspectors, the ministry was only able to audit firms employing 111,000 workers or 4.1 percent of the employed labor force.13

Clearly, it is critical to continue to strengthen the financial and human capacities of the ministry of Labor, but it would be naïve to limit a strategy to enhance RLP to that single strategy, which can mature only over a very long time. Rather, an effective strategy requires a broader vision that looks to a wider range of public policy instruments.

The Ministry of Labor needs strong partners. It needs to build strategies and coordinate with other government ministries, regulatory agencies, and semiautonomous entities. It needs to look to the private sector not as the enemy to be penalized but as welcome partners to be engaged, and to reach out to the strong and respected business associations, especially those with a record of public service such as FUSADES, FUNDEMAS, ANEP, and the Chamber of Commerce.

The ministry must also look to civil society, including labor unions and NGOs, as powerful partners and levers in advancing its social justice goals. Pulled together, these international and national actors can constitute a powerful coalition to advance RLP.

Some of the legal instruments El Salvador can utilize to incentivize private sector compliance with higher labor standards include free-trade zones, government procurement guidelines, high way maintenance regulations, mining sector regulation, and varied laws governing the maquila industry—all complemented with various fiscal incentives to encourage responsible practices.

- **Procurement regulations**14 require bidders on government contracts to show evidence that they are current with payments to social security and employee pensions. However, stakeholders interviewed argued that there is not a clear mechanism to verify compliance with these standards. The government could incorporate responsible labor and environmental practices, and provide

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14 Ley de Adquisiciones y Contrataciones de la Administración Pública (LACAP)
additional benefits in the bidding process for those who excel in continuously improving responsible practices.

- **FOVIAL.** This is a private-public partnership between the Ministry of Public Works and representatives of the private sector, whose function is to contract out the maintenance of the national highway system. Funds derive from a gasoline tax. All bids must present the social security and staff pension clearances. Upon selection, a contractor must again show up-to-date clearances. However, FOVIAL does not further preoccupy itself with the labor practices of contractors and could instead incorporate compliance with labor standards in order to qualify and obtained contracts.

- **The Free Trade Zone Law.** The current free trade zone law requires evidence of payments to social security and pensions for the fiscal incentives to be applied to a commercial transaction. The law also mandates compliance with “...acceptable working conditions regarding minimum wage, working hours, occupational health and safety, and all other conditions necessary for the well development of the employee’s responsibilities and functions”.\(^\text{15}\) Although formally this law seems comprehensive, its degree of enforcement is not yet established.

- **The Law for International Services,** which regulates administration and fiscal incentives for free-trade zone parks and centers specializing in international services, requires firms operating in these zones to “comply with the laws, codes, and other regulatory dispositions regarding labor and social safety in favor of employees,” reaffirms the rights of unionization and prohibitions on forced labor (Article 47). Failure to adhere to such a mandate is categorized as a “grave infraction”. The Ministries of Economy and Finance, framed this law as part of a long-term strategy to bolster the nation’s future international competitiveness in promising growth sectors such as call centers, back-office services, software design, medical services, or aircraft and shipping maintenance.

- **The Mining Law\(^\text{16}\)** mandates that mining firms must comply with applicable labor regulations, with special attention to establishing programs in mining safety. The law also calls upon to “...prevent, control, minimize, and compensate...” for negative impacts on persons and the environment. Firms are required to train technical persons of Salvadoran nationality.

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15 Free Trade Zone Law, Article 29
16 Ley de Minería, Article 25
A central principle of responsible labor is that firms treat their workers not as mere commodities of commerce—as the Salvadoran constitution affirms—but rather as assets worthy of investment and continuous training and as valuable stakeholders whose interests must be served. El Salvador has a number of laws and programs consistent with this modern theory:

- **The Income Tax Code**\(^{17}\) provides for tax exemptions for corporate and individual donations to those nonprofits that benefit the public welfare, with specific enumeration of nonprofits that promote social assistance, sports, education, and instruction. Salvadorian firms thus face positive incentives to donate to and even to establish nonprofit foundations that assist their employees to gain professional skills and raise their productivity.

- **The Law of Professional Formation**\(^{18}\) established the Salvadoran Institute for Professional Training (INSAFORP), with tripartite participation representing the private sector, workers, and the government. An internal research office, El Observatorio de Mercado Laboral, seeks to forecast the needs of the labor markets, so that INSAFORP can offer courses that will prepare workers for good jobs. The INSAFORP training budget of roughly US$15 million is supported by a one percent payroll tax as well as international assistance (from Switzerland and Spain); the costs of individual courses are apportioned 70 percent by INSAFORP and 30 percent by the interested firms, although there are allegations that firms do not always fully meet these obligations.

The private sector reports that, as the result of political and bureaucratic considerations and plain inertia, courses are sometimes divorced from the requirements of the labor market. INSAFORP needs to demonstrate to the private sector that its courses are indeed raising worker productivity. Surprisingly, INSAFORP does not conduct training on CSR, according to one official, because the institute feels that CSR does not directly impact competitiveness.

In 1986, the Salvadoran private sector created its own nonprofit educational institute, La Fundacion Empresarial para el Desarrollo Educativa (FEPADE), which today offers a variety of courses in engineering and business administration, and provides assistance to business start-ups. FEPADE, which has received strong support from the Inter-American Development Bank, is an example of the leadership and capacity that the Salvadoran private sector can apply to education, when it is persuaded that its legitimate interests will be served.

\(^{17}\) Ley de Impuestos Sobre La Renta  
\(^{18}\) Ley de Formacion Profesional
In addition to the incentives discussed above, the government of El Salvador has many actual or latent powers, on paper at least, to frame business behavior through targeted incentives and sanctions.

- **The Commercial Code** requires firms to register with the National Registry (CNR), and to update their listing on a yearly basis (although compliance reportedly is spotty). To strengthen responsible practices, registration requirements and updates could address certain responsible labor issues.

- **The Institute of Social Security (ISSS),** with only 70 inspectors to ensure nationwide compliance with payments and services, relies heavily on employee complaints. In 2008 the institute spearheaded a campaign that encouraged employees to denounce employers who are failing to make payments. The ISSS also began to publish a list of delinquent companies, and the list is now published twice yearly in major newspapers. This “naming and shaming” strategy could be complemented with a positive list of firms that have a particularly good record with ISSS programs.

- **Government financial institutions** that provide loans and guarantees to private firms could take labor practices into account in their approval and oversight procedures. In El Salvador as elsewhere, financial institutions commonly seek to promote certain social goals, such as assisting small businesses, local firms, communities, minorities, and women. In extending loans and guarantees, good labor practices could be rewarded in their own right, and as indicators of high quality, reliable management. The continuous training of employees could warrant special recognition.

- **Regulatory agencies** provide licenses and other benefits vital to the operations of firms within their jurisdictions. Application and renewal processes could require certifications of responsible labor practices and even give positive points for outstanding performance.

- **The Consumer Protection Agency** permits the recognition of firms for good performance. In calling attention to beneficial products, the agency could not only reference the final product but also the production process and within that, the protection of workers’ rights (and the environment). The Consumer Protection Agency has already undertaken inspections of hotels and beverage establishments, and might add certain labor standards to its checklists.

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19 Defensoria del Consumidor
• The Salvadoran government subsidizes fuel costs for bus companies (transportistas). However, the health and safety conditions of drivers are too often ignored, placing their passengers at risk. Fuel subsidies could be dependent upon compliance with good working conditions of bus drivers.

• The Ministry of Agriculture partners with the private sector across a range of programs and some of these partnerships could incorporate RLP into their guidelines. Specifically, Minister Manuel Sevilla indicated an interest in building a national brand for coffee exports; compliance with high international labor standards could enhance the competitiveness of such a branding campaign. Minister Sevilla wants to focus special attention on the health and safety of agricultural workers.

Some of these instruments and incentives may prove impractical or too costly or may meet strong opposition from stakeholders. In each case, stakeholders should be consulted and costs and benefits properly weighed. If duly implemented and broaden where necessary, such instruments could provide the public administration with practical tools to advance responsible labor standards.

Conclusion

The common goal of the mentioned proposals is to enable countries to build a whole-of-government, multi-sector framework for RLP, in the context of CSR and international competitiveness. If implemented, such a comprehensive public policy strategy could help set countries, especially developing economies, on a more inclusive, sustainable growth path—and to help nations become an enviable model for other countries in their region and beyond.

Many of the recommendations in this article require political decisions. Optimum sequencing of their implementation must also be carefully decided. To begin, interested stakeholders could select just a few of the more economically potent and politically acceptable incentives to advance CSR/RLP goals and gradually advance to build the framework in its entirety. Implementation should be carefully sequenced and the entire process continually evaluated for results. At each stage, policy implementation should be preceded by public education.

As the vision of a more socially responsible economy captures the public imagination, and as the linkages between responsible labor practices, international competitiveness, and better living standards gain wider recognition, the foundations will have been laid.
for the proposed administrative reforms and institutional innovations - and for a renewed national awareness and culture of compliance.

International brands, large beneficiaries of the proposed framework and who have access to consumers dollars to reward countries with RLP, must stand ready to participate. With the establishment of such a public good, companies must look at governments as key stakeholders of their operational structures and become more aware of the public sector’s efforts to promote RLP. “By engaging with governments, companies can increase the impact of their CSR strategy and improve the sustainability of their programs. Joining efforts across sectors can lead to more efficient solutions to social problems that are a concern to both companies and governments” (Business for Social Responsibility, 2009). Those companies that take proactive steps to become involved in public policy will have a new opportunity to become leaders in the countries where they operate, while ensuring that the virtuous cycle takes hold for their businesses and the communities in their spheres of influence.
References


### Table 1. Interviewed organizations in Costa Rica

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Creating an Enabling Environment for Responsible Labor Practices:

Experiences in Costa Rica and El Salvador

Table 2. Interviewed organizations in El Salvador

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### Civil Society
- Industrias La Constancia
- Evergreen El Salvador
- Romeo Pineda & Asociados
- Casals & Associates
- Fundación Empresa y Desarrollo

### Other
- FUNDEMAS
- Sistema de la Integración Centroamericana
- Comité Nacional Laboral
- Grupo de Monitoreo Independiente de El Salvador
- FUSADES
- Confederación Sindical de Trabajadores de El Salvador
- Organización de Mujeres Salvadoreñas por la Paz
- Cámara Salvadoreña de la Industria de la Construcción
- FundAzúcar
- Independientes de El Salvador

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*Experiences in Costa Rica and El Salvador*